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de l'Ontario

Official Report of Debates (Hansard)

SP-34

Journal des débats (Hansard)

SP-34

Standing Committee on Social Policy

Strengthening Protection
for Ontario Consumers Act, 2017

Comité permanent de la politique sociale

Loi de 2017 sur le renforcement
de la protection
des consommateurs ontariens

2nd Session
41st Parliament

Monday 27 November 2017

2^e session
41^e législature

Lundi 27 novembre 2017

Chair: Peter Tabuns
Clerk: Jocelyn McCauley

Président : Peter Tabuns
Greffière : Jocelyn McCauley



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 27 November 2017

Lundi 27 novembre 2017

*The committee met at 1400 in room 151.*STRENGTHENING PROTECTION
FOR ONTARIO CONSUMERS ACT, 2017LOI DE 2017 SUR LE RENFORCEMENT
DE LA PROTECTION
DES CONSOMMATEURS ONTARIENS

Consideration of the following bill:

Bill 166, An Act to amend or repeal various Acts and to enact three new Acts with respect to the construction of new homes and ticket sales for events / Projet de loi 166, Loi modifiant ou abrogeant diverses lois et édictant trois nouvelles lois en ce qui concerne la construction de logements neufs et la vente de billets d'événements.

The Chair (Mr. Peter Tabuns): Good afternoon, committee members. I'm calling this meeting to order for clause-by-clause consideration of Bill 166, An Act to amend or repeal various Acts and to enact three new Acts with respect to the construction of new homes and ticket sales for events. Michael Wood from legislative counsel is here to assist us with our work. Thank you, Michael.

A copy of the numbered amendments received on Thursday, November 23, 2017, is on your desk. The amendments have been numbered in the order in which the sections appear in the bill. Are there any questions from committee members before we start? Good.

As you've probably noticed, Bill 166 is comprised of three sections which enact five schedules. In order to deal with the bill in an orderly fashion, I suggest we postpone the first three sections in order to dispose of the five schedules first. Is that agreed?

Mrs. Cristina Martins: Hold on a second.

Mr. Vic Dhillon: Chair, can we have just a couple of minutes?

The Chair (Mr. Peter Tabuns): Would you like to ask for—

Ms. Daiene Vernile: Yes.

The Chair (Mr. Peter Tabuns): We'll recess for five minutes.

The committee recessed from 1401 to 1404.

The Chair (Mr. Peter Tabuns): Members of committee, the meeting is resumed to where I had left off. I'll just repeat: As you've probably noticed, Bill 166 is composed of three sections which enact five schedules. In order to deal with the bill in an orderly fashion, I

suggest we postpone the three sections in order to dispose of the five schedules first. Is that agreed? Agreed.

We go, then, to the first motion, government motion number 1. Who will be reading that out?

Mr. Vic Dhillon: I will.

The Chair (Mr. Peter Tabuns): Mr. Dhillon, just as a note to you and other members of the committee, when you're reading out your motions, if you'd read the highlighted title at the beginning and then read the motion from there. So please.

Mr. Vic Dhillon: Schedule 1 to the bill, subsection 1(1), New Homes Construction Licensing Act, 2017, definition of "new home."

I move that paragraph 1 of the definition of "new home" in subsection 1(1) of schedule 1 to the bill be amended by striking out "by a common wall" at the end and substituting it "by one or more common walls".

I will be supporting this, Chair.

The Chair (Mr. Peter Tabuns): Mr. Dhillon, could you reread from "and substituting," just those last few words? There was a lack of clarity.

Mr. Vic Dhillon: Yes—"at the end and substituting 'by one or more common walls'."

The Chair (Mr. Peter Tabuns): Thank you. Is there discussion?

Mr. Vic Dhillon: We'll be supporting this motion, Chair.

The Chair (Mr. Peter Tabuns): Any others? No other discussion? Fine. Shall government motion number 1 carry? Carried.

Any discussion on this schedule as a whole? None? Then I'll go to the vote. Shall schedule 1, section 1, as amended, carry? It's carried.

Colleagues, sections 2 and 3 have no amendments. I propose grouping them together. Is there any objection? There's none? Shall schedule 1, sections 2 and 3 carry? They're carried.

Now we go to schedule 1, section 4. We have government motion 2, which we need to stand down as it is contingent on the passage of government motions 12 and 13. You're agreed? Okay, stood down.

We now have sections 5 to 11 with no amendments. I propose to bundle them together. Are you agreed with that? Okay. Shall schedule 1, sections 5 to 11, inclusive, carry? Carried? Done.

We now go to NDP motion 3: Mr. Gates.

Mr. Wayne Gates: Schedule 1 to the bill, section 11.1, New Home Construction Licensing Act, 2017.

I move that schedule 1 to the bill be amended by adding the following section:

“Consumer advocacy

“The board of the regulatory authority shall include members with a background in consumer advocacy.”

The Chair (Mr. Peter Tabuns): Mr. Gates, could you just reread the number under the words “Consumer advocacy”?

Mr. Wayne Gates: I don’t have a number under there.

The Chair (Mr. Peter Tabuns): It’s “11.1.”

Mr. Wayne Gates: Okay, sorry. The front, not behind.

The Chair (Mr. Peter Tabuns): Yes.

Mr. Wayne Gates: Okay—“11.1.”

The Chair (Mr. Peter Tabuns): Thank you. Any discussion? Do you have any comment on this, Mr. Gates?

Mr. Wayne Gates: Well, I think that when we took a look at the committee that was formed, we had 11 people on the committee and we only had one consumer there. It didn’t make any sense to me. This will help correct some of the injustices that consumers feel are going on with Tarion.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Yes. We agree with this. I think it’s important that we have proper representation from consumers and members of the public on the board, so we support this.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Dhillon.

Mr. Vic Dhillon: Chair, we’ll be voting against this because the proposed legislation already includes strong oversight and accountability measures related to board governance. Second, the intent is to have a competency-based board where members are appointed or elected based on the skills they possess.

The Chair (Mr. Peter Tabuns): Any further debate? There being none, you’re ready for the vote? All those in favour of NDP motion 3, please indicate. All those opposed, please indicate. It is lost.

We go to section 12. Colleagues, we have no amendments for sections 12 to 25, and I propose to group them together. Is there any objection? None? Okay. I’ll go for the vote. Shall schedule 1, sections 12 to 25, inclusive, carry? They are carried.

We now go to NDP motion number 4. Mr. Gates.

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Mr. Wayne Gates: Schedule 1 to the bill, section 25.1 (New Home Construction Licensing Act, 2017).

I move that schedule 1 to the bill be amended by adding the following section:

“Objections of Regulatory Authority

“Objections

“25.1 The objections of the regulatory authority include promoting the construction of properly built new homes.”

The Chair (Mr. Peter Tabuns): Mr. Gates, just for clarity: I heard the word “objectives,” and the text here is “objects.” You meant “objects.”

Mr. Wayne Gates: Yes, you’re right. Thank you.

The Chair (Mr. Peter Tabuns): Thank you. Debate, Mr. Gates? Did you want to speak to this?

Mr. Wayne Gates: It’s very easy; it’s common sense. I know that doesn’t always prevail in the province of Ontario. I think it’s pretty self-explanatory.

The Chair (Mr. Peter Tabuns): Fair enough. Any other debate? Mr. Dhillon.

Mr. Vic Dhillon: Chair, we’ll be voting against this. The appropriate place to deal with objects of the regulatory authority is in the constituting documents of the authority, not in the legislation. The legislation requires the regulatory authority to do research to identify best practices for new home construction. This supports the goal of properly built new homes.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Yes, we’ll support this. I think it’s important that you specify the objective of the bill in legislation. I think we would expect no less.

The Chair (Mr. Peter Tabuns): Any further debate? There being none, you’re ready for the vote? All those in favour of NDP motion 4, please indicate. All those opposed? It is lost.

We then go to NDP motion number 5. Mr. Gates.

Mr. Wayne Gates: Schedule 1 to the bill, section 25.2 (New Home Construction Licensing Act, 2017).

I move that schedule 1 to the bill be amended by adding the following section:

“Objections

“25.2 The objections of the regulatory authority include ensuring high standards of performance and ethical conduct by new home vendors and builders.”

The Chair (Mr. Peter Tabuns): Mr. Gates, again I heard “objectives.”

Mr. Wayne Gates: Objects.

The Chair (Mr. Peter Tabuns): “Objects”—you meant that?

Mr. Wayne Gates: Yes, “objects.” Sorry.

The Chair (Mr. Peter Tabuns): Okay. Any further discussion? Mr. Gates, did you want to address the amendment?

Mr. Wayne Gates: I think it’s very similar to the last one. It’s really common sense. I believe that when you save for your entire life to buy a new home, you expect it to be built by construction companies and builders that are going to do it right the first time. If you have any problems, obviously that’s a whole other issue. But I think it’s common sense.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. McDonell.

Mr. Jim McDonell: I think it’s something we don’t see every day with this government, but I think it’s important to ensure that we have high standards and ethics in this legislation. It may be obvious to many, but it does not seem to be obvious here every day, so I’d like to see it in the bill.

The Chair (Mr. Peter Tabuns): No further discussion? You’re ready for the vote? All those in favour of

NDP motion 5, please indicate. All those opposed, please indicate. It is lost.

We then go to NDP motion number 6. Mr. Gates.

Mr. Wayne Gates: Schedule 1 to the bill, section 25.3 (New Home Construction Licensing Act, 2017).

I move that schedule 1 to the bill be amended by adding the following section:

“25.3 The objects of the regulatory authority include ensuring the provision of timely, accurate and useful information to new home buyers about vendor and builder performance and conduct.”

The Chair (Mr. Peter Tabuns): Just above the number 25.3, the title was “Objects.”

Mr. Wayne Gates: “Objects,” yes.

The Chair (Mr. Peter Tabuns): Fine. Okay. Any discussion? Mr. Gates.

Mr. Wayne Gates: It's the same as the last two. I think they're common sense. I don't know why anybody wouldn't agree, including you guys.

The Chair (Mr. Peter Tabuns): Any further discussion of the motion? There being none, you're ready for the vote? All those in favour of NDP motion number 6, please indicate. Those opposed? It's lost.

We go then to NDP motion number 7. Mr. Gates.

Mr. Wayne Gates: Schedule 1 to the bill, section 25.4 (New Home Construction Licensing Act, 2017).

I move that schedule 1 to the bill be amended by adding the following section:

“Objects

“25.4 The objects of the regulatory authority include providing for an accessible system for receiving, responding to and tracking complaints from the public about vendor and builder performance and conduct.”

The Chair (Mr. Peter Tabuns): Any discussion? Did you want to speak to it?

Mr. Wayne Gates: Yes. In several reports, the Ontario Ombudsman had noted the lack of a proper system to track customer complaints about builders and vendors. Tarion's CEO responded to these comments by noting that a complaints system is not currently listed among Tarion's corporate objectives. If this motion passes, it will be an object of the regulatory authority as recommended by Tarion's ombudsman.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, you're ready for the vote? All those in favour of NDP motion number 7, please indicate. All those opposed, please indicate. It is lost.

Colleagues, we now have section 26 up to section 33 where there are no amendments. I propose to bundle them together. Are there any objections?

Ms. Daiene Vernile: No, go ahead.

The Chair (Mr. Peter Tabuns): Thank you, Daiene. Excellent.

Ready for the vote? Shall schedule 1, sections 26 to 33, inclusive, carry? They are carried.

We then go to NDP motion number 8. Mr. Gates.

Mr. Jim McDonnell: A short one.

Mr. Wayne Gates: It's almost a play here.

Schedule 1 to the bill, section 33.1 (New Home Construction Licensing Act, 2017).

I move that schedule 1 to the bill be amended by adding the following section:

“Vendor and builder directory

“33.1(1) The regulatory authority shall publish on its website a directory of licensees showing timely, accurate and useful information about the past performance and conduct of licensees, including the following information about each licensee:

“1. The prescribed information summarizing any claims made against a licensee under section 52(1) of the Protection for Owners and Purchasers of New Homes Act, 2017 and details about claims for which compensation was paid.

“2. The prescribed information summarizing tribunal orders made under section 52(17) of the Protection for Owners and Purchasers of New Homes Act, 2017 against a licensee respecting the payment of compensation to a claimant.

“3. The prescribed details of orders made under section 62 of the Protection for Owners and Purchasers of New Homes Act, 2017 requiring a licensee to pay compensation or make restitution.

“4. The prescribed details of any liens and charges created under section 64 of the Protection for Owners and Purchasers of New Homes Act, 2017 against the property of a licensee.

“5. The prescribed details of the financial position of a licensee, including any insolvency proceedings of the licensee or of a person with whom the licensee is associated.

“6. If the licensee is or has been associated with any other licensee, the prescribed information regarding the association.

“7. The prescribed details of any breach of licence conditions by a licensee.

“8. The prescribed details regarding any findings of misconduct by a licensee.

“9. Any other prescribed information.

“Same

“(2) The information described in paragraphs 1 and 2 of subsection (1) shall remain published on the website for 10 years after the date of the claim or order, or for such longer time as may be prescribed.

“Same

“(3) Publication under subsection (1) shall be in accordance with any prescribed requirements regarding the form, manner and time of publication.”

The Chair (Mr. Peter Tabuns): Mr. Gates, just going back to items 1 and 2, what we heard here was “under section 52(1),” and the text is “subsection.” Did you mean subsection?

Mr. Wayne Gates: Yes.

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The Chair (Mr. Peter Tabuns): And then, under 2, we heard “section 52(17).” Did you mean subsection?

Mr. Wayne Gates: That's not what I have here, but that's fine.

The Chair (Mr. Peter Tabuns): Okay.

Mr. Wayne Gates: All right. Thank you.

The Chair (Mr. Peter Tabuns): Any discussion on NDP motion number 8?

Mr. Wayne Gates: This simply requires that the regulatory authority builder directory include some basic information about builder and vendor performance and compliance—the bare minimum information that a new home buyer needs for a builder/vendor directory to be useful.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: I think it's well known that homes are generally the largest investment a consumer makes, so having ready information about the builder really is quite important when you're deciding to have a house built or to buy a house that was built by somebody. I think it's the minimum that the consumer have easy access to any of the complaints or issues that the builder has had in the past.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Dhillon.

Mr. Vic Dhillon: Chair, we'll be voting against this because schedule 1 already includes a requirement for a searchable directory of licensees and outlines specific information requirements for that directory. As well, subject to consultation with stakeholders and the public, if it is determined those other types of information should be included in the directory, additional requirements can be prescribed in the regulations.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote? All right. All those in favour of NDP motion number 8, please indicate. All those opposed, please indicate. It is lost.

We then go to section 34. We have no amendments on sections 34 to 42. I propose to bundle them together. Are people agreed? Agreed. Shall schedule 1, sections 34 to 42, inclusive, carry? Carried.

That brings us then to government motion number 9. Mr. Dhillon.

Mr. Vic Dhillon: Schedule 1 to the bill, clause 43(1)(b) (New Home Construction Licensing Act, 2017).

I move that clause 43(1)(b) of schedule 1 to the bill be amended by adding "under subsection 40(2) or 45(1)" at the end.

The Chair (Mr. Peter Tabuns): Did you want to speak to this?

Mr. Vic Dhillon: We'll be supporting this.

The Chair (Mr. Peter Tabuns): Any other discussion? There being none, are people ready for the vote on government motion number 9? Okay. All those in favour of government motion number 9, please indicate. All those opposed, please indicate. It is carried.

Then we go to vote on the section as a whole. Any questions before we go to the vote? There are none. Shall schedule 1, section 43, as amended, carry? It is carried.

We now have sections 44 to 56 where we have no amendments. I propose to bundle them together. Are you agreed? Okay. Shall schedule 1, sections 44 to 56, inclusive, carry? Carried.

We now go to PC motion number 10. Mr. Coe.

Mr. Lorne Coe: I move that schedule 1 to the bill be amended by adding the following section:

"Ombudsperson

"56.1(1) The regulatory authority shall make available an ombudsperson, who shall report to the Legislature.

"Duties

"(2) The ombudsperson shall carry out the following duties:

"1. Inquire into and to respond to the administration of this act by the authority.

"2. Make recommendations in respect of the administration of this act by the authority.

"3. Carry out any duties that may be assigned to him or her by the Legislature.

"4. Carry out any duties that may be prescribed."

And to my colleague, through you, Chair.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Again, this is generally the largest purchase a homeowner or consumer makes, and we think that it's important that the homeowner has access to an ombudsman who could bring issues back to the Legislature if he considered them important, so that we can keep the Legislature abreast of changes that need to be looked at from time to time.

The Chair (Mr. Peter Tabuns): Any other discussion? Mr. Gates.

Mr. Wayne Gates: The PC motion will be part of the regulatory authority appointment and internal ombudsman, and this is good. But our amendment number 16 would put the regulatory authority under the oversight of the Ontario Ombudsman, which would be more publicly accountable than an internal ombudsman who is accountable to the regulatory authority board, not the public.

The purpose for that—I agree that the internal ombudsman is better than nothing, but without support of this motion—on the grounds that the NDP has an upcoming ombudsman motion that would accomplish the same worthy intent of this particular motion, but in a more effective and publicly accountable manner.

The Chair (Mr. Peter Tabuns): Any further discussion?

Mr. Lorne Coe: Recorded vote.

Ayes

Coe, McDonell.

Nays

Dhillon, Dong, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We now have sections 57 to 64 with no amendments, so I propose to bundle them. You're agreed? Great. Shall schedule 1, sections 57 to 64, inclusive, carry? They are carried.

Members, we'll now stand down government motion 11, as it is contingent on the passage of government motions 12 and 13. We'll go to 12 and 13—

Interjection.

The Chair (Mr. Peter Tabuns): My apologies. We have section 66 with no amendments. I'm ready for the vote on section 66. Shall schedule 1, section 66 carry? It is carried.

We now go to government motion number 12.

Mr. Vic Dhillon: Government motion number 11?

The Chair (Mr. Peter Tabuns): No. We go back to 11 once 12 and 13 are dealt with.

Mr. Vic Dhillon: Right. Thank you.

The Chair (Mr. Peter Tabuns): Mr. Dhillon.

Mr. Vic Dhillon: Schedule 1 to the bill, section 66.1 (New Home Construction Licensing Act, 2017).

I move that schedule 1 to the bill be amended by adding the following section:

"Compliance order

"66.1(1) If the director believes on reasonable grounds that a person has engaged or is engaging in any activity that contravenes any requirement under this act, whether the activity constitutes an offence or not, the director may propose to make an order directing a person to comply with the requirement.

"Notice

"(2) The director shall serve on the person a notice of a proposed order described in subsection (1) and written reasons for making it.

"Request for hearing

"(3) The notice shall state that the person is entitled to a hearing by the tribunal if the person, within 15 days after it is served, mails or delivers a notice in writing requesting a hearing to the tribunal and the director.

"No hearing required

"(4) The director may make the order if the person does not request a hearing in accordance with subsection (3).

"Hearing

"If, in accordance with subsection (3), the person requests a hearing, the tribunal shall hold the hearing.

"Tribunal's order

"The tribunal may order the director to make the proposed order or to refrain from making the proposed order or may make an order of its own in substitution for that of the director.

"Conditions

"(7) The tribunal may attach to its order the conditions that it considers proper.

"Parties

"The parties to proceedings before the tribunal under this section are the director, the person who has requested the hearing and the other persons, if any, that the tribunal specifies."

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Chair, we'll be supporting it because the regulatory authority requires a range of measured enforcement tools in order to operate as a modern, risk-based regulator. The ability to issue administrative compliance orders would allow the regulatory authority to have a more measured approach to promote compliance in those cases where prosecution or revoking a licence is not warranted as a first step. Other Ontario administrative authorities have

been granted the ability to issue administrative compliance orders.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Dhillon. Mr. Dhillon, in reading out the motion, under "Hearing," you didn't say "(5)"; under "Tribunal's order," you didn't say "(6)"; and under "Parties," you didn't say "(8)". You had expected all of them to be there?

Mr. Vic Dhillon: Yes.

The Chair (Mr. Peter Tabuns): Okay. Thank you. Any other discussion on this? There being none, you're ready for the vote. All those in favour of government motion number 12, please indicate. All those opposed, please indicate. It is passed.

We go to government motion number 13. Mr. Dhillon.

Mr. Vic Dhillon: Schedule 1 to the bill, section 66.2, New Home Construction Licensing Act, 2017.

I move that schedule 1 to the bill be amended by adding the following section:

"Immediate compliance order

"66.2(1) If, in the director's opinion, it is in the public interest to do so, the director may make an order requiring compliance with a requirement under this act.

"Same

"(2) The order takes effect as soon as it is served, in accordance with subsection (3), on the person named in it.

"Notice of order

"(3) Upon making an order for compliance under subsection (1), the director shall serve on the person named in the order a notice that includes the order, the written reasons for making it and the statement of the right that subsection 66.1(3) requires be included in a notice mentioned in subsection 66.1(2).

"Hearing

"(4) If, in accordance with the right described in subsection (3), the person named in the order requests a hearing, the tribunal shall hold the hearing.

"Tribunal's order

"(5) The tribunal may confirm or set aside the order or exercise all other powers that it may exercise in a proceeding under section 66.1.

"Expiration of order

"(6) If, in accordance with the right described in subsection (3), the person named in the order requests a hearing,

"(a) the order expires 15 days after the tribunal receives the written request for a hearing; or

"(b) the tribunal may extend the time of expiration until the hearing is concluded, if a hearing is commenced within the 15-day period mentioned in clause (a).

"Same

"(7) Despite subsection (6), if the tribunal is satisfied that the conduct of the person named in the order has delayed the commencement of the hearing, the tribunal may extend the time of the expiration for the order,

"(a) until the hearing commences; and

"(b) once the hearing commences, until the hearing is concluded.

“Parties

“(8) The parties to proceedings before the tribunal under this section are the director, the person who has requested the hearing and the other persons, if any, that the tribunal specifies.”

The Chair (Mr. Peter Tabuns): Any comments, Mr. Dhillon?

Mr. Vic Dhillon: We will be, obviously, supporting this. As previously stated in relation to the previous government motion, the regulatory authority needs to have a range of measured enforcement tools in order to operate as a modern, risk-based regulator. The ability to issue immediate administrative compliance orders would allow the regulatory authority to have a more measured approach to promote compliance in those cases where prosecution or revoking a licence is not warranted or possible as a first step and there is an immediate need to protect the public interest. It would also provide an appeal mechanism to the Licence Appeal Tribunal for those who disagree with the regulatory authority’s decision to issue an immediate administrative compliance order.

The Chair (Mr. Peter Tabuns): Further comments? Mr. McDonell.

Mr. Jim McDonell: Yes. We’re somewhat skeptical of this. This amendment gives the authority the power to order compliance with the act where the authority may have no reasonable grounds to believe the act was contravened. Since the regulator is not accountable to the Legislature, we’re somewhat worried about providing this power.

The Chair (Mr. Peter Tabuns): Other commentary? There being none, you’re ready for the vote? All those in favour of government motion number 13, please indicate. Those opposed? It is carried.

With that, colleagues, we go back to government motions 2 and 11. Government motion number 2. Who will be presenting that? Mr. Dhillon?

Mr. Vic Dhillon: Motion number 2?

The Chair (Mr. Peter Tabuns): Yes, please.

Mr. Vic Dhillon: That was stood down before.

The Chair (Mr. Peter Tabuns): Yes, and now we’re going back to it.

Mr. Vic Dhillon: Schedule 1 to the bill, subsection 4(4) (New Home Construction Licensing Act, 2017).

I move that subsection 4(4) of schedule 1 to the bill be amended by adding the following clause:

“(h.1) compliance orders made under section 66.1 or immediate compliance orders made under section 66.2;”

The Chair (Mr. Peter Tabuns): Any discussion? None? Any discussion from anyone else? There being none, you’re ready for the vote? All those in favour of government motion number 2, please indicate. All those opposed? It is carried.

We now have to go to vote on the section. People are ready for the vote? Shall schedule 1, section 4, as amended, carry? Carried.

We then go to government motion number 11, which was held down. Government motion 11, is there someone—Mr. Dhillon, you’ll speak to it?

Mr. Vic Dhillon: Yes, Chair. Schedule 1 to the bill, clause 65(2)(b) (New Home Construction Licensing Act, 2017).

I move that clause 65(2)(b) of schedule 1 to the bill be amended by adding “66.1 or 66.2” at the end.

The Chair (Mr. Peter Tabuns): Any discussion, Mr. Dhillon? None? Any questions or comments by members of the committee? There are none. You’re ready for the vote? All those in favour of government motion number 11, please indicate. All those opposed? It is carried.

We then have to vote on section 65, as amended. You’re ready for the vote?

Ms. Daiene Vernile: We are.

The Chair (Mr. Peter Tabuns): Shall schedule 1, section 65, as amended, carry? It is carried.

We then go to government motion number 14. Mr. Dhillon.

Mr. Vic Dhillon: Schedule 1 to the bill, section 66.3 (New Home Construction Licensing Act, 2017).

I move that schedule 1 to the bill be amended by adding the following section:

“Appeal

“66.3 Even if a party to a proceeding before the tribunal appeals, under section 11 of the Licence Appeal Tribunal Act, 1999, an order of the tribunal made under section 66.1 or 66.2, the order takes effect immediately but the tribunal may grant a stay until the disposition of the appeal.”

The Chair (Mr. Peter Tabuns): Any discussion? None? Any comments by anyone else? There being none, you’re ready for the vote?

Ms. Daiene Vernile: We are.

The Chair (Mr. Peter Tabuns): Okay. All those in favour of government motion number 14, please indicate. Opposed? It is carried.

Now, members of committee, we have no amendments in sections 67 to 78. I propose that we bundle them together. Are you agreed?

Interjections: Agreed.

The Chair (Mr. Peter Tabuns): You’re ready for the vote? Shall schedule 1, sections 67 to 78, inclusive, carry? They are carried.

We then go to NDP motion number 15. Mr. Gates.

Mr. Wayne Gates: Schedule 1 to the Bill, section 78.1 (New Home Construction Licensing Act, 2017).

I move that schedule 1 to the bill be amended by adding the following section:

“Public Sector Salary Disclosure Act, 1996

“78.1 The regulatory authority is deemed to be an employer in the public sector for the purposes of the Public Sector Salary Disclosure Act, 1996.”

1440

The Chair (Mr. Peter Tabuns): I’m sorry to say that I’m ruling this amendment out of order as it is beyond the scope of the bill.

We go on to NDP motion number 16. Mr. Gates.

Mr. Wayne Gates: I’m just getting my notes down here: “Peter ruled me out of order.”

The Chair (Mr. Peter Tabuns): Yes. They'll be bitter in caucus tomorrow, but still.

Mr. Wayne Gates: I just want to get it straight.

Schedule 1 to the bill, section 78.2 (New Home Construction Licensing Act, 2017).

I move that schedule 1 to the bill be amended by adding the following section:

"Ombudsman

"78.2 The regulatory authority is subject to the oversight of the Ombudsman of Ontario."

The Chair (Mr. Peter Tabuns): Again, I'm sorry to say that this amendment is beyond the scope of the bill and so I am ruling it out of order.

With that, we go to NDP motion 17. Mr. Gates.

Mr. Wayne Gates: Schedule 1 to the bill, section 78.3 (New Home Construction Licensing Act, 2017).

I move that schedule 1 to the bill be amended by adding the following section:

"Freedom of Information and Protection of Privacy Act

"78.3 The regulatory authority is deemed to be an institution for the purposes of the Freedom of Information and Protection of Privacy Act."

The Chair (Mr. Peter Tabuns): Did you want to speak to that?

Mr. Wayne Gates: I was holding back. I didn't know if you were going to rule me out of order, Chair. I wasn't sure what you were going to do.

The Chair (Mr. Peter Tabuns): It's always a risk, it's true.

Mr. Wayne Gates: The regulatory authority is subject to the Freedom of Information and Protection of Privacy Act. The regulatory authority will be making decisions that will have a major impact on the public interest, and the public deserves to have the same access to information that they have had for public agencies and ministries.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, you're ready for the vote? Okay. All those in favour of NDP motion 17, please indicate. All those opposed? It is lost.

Committee members, we now have sections 79 to 87 where there are no amendments. I propose to bundle them together. Are you agreeable? Great. Shall schedule 1, sections 79 to 87, inclusive, carry? Carried.

That takes us to PC motion number 18. Mr. Coe.

Mr. Lorne Coe: I move that subsection 88(1) of schedule 1 to the bill be amended by striking out "on a day to be named by proclamation of the Lieutenant Governor" at the end and substituting "on the first anniversary of the day the Strengthening Protection for Ontario Consumers Act, 2017 receives royal assent".

Thank you, Chair. To my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: We heard from many people the need and the urgency for these changes, and we don't see how it could not be reasonably done within a year. We think that's a reasonable amount of time. We would like to see these changes made within the year, and this amendment would accomplish that.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none—

Mr. Lorne Coe: Recorded vote, Chair.

Ayes

Coe, McDonell.

Nays

Dhillon, Dong, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost.

We then go to the vote on the section as a whole. You're ready for the vote? Shall schedule 1, section 88 carry? It is carried.

Then we go to section 89. Any discussion of section 89? There being none, you're ready for the vote? Shall schedule 1, section 89 carry? Carried.

Then we vote on schedule 1 as a whole. Shall schedule 1, as amended, carry? It is carried.

We now go to schedule 2, section 1: I have no amendments. Ready to vote? Shall schedule 2, section 1 carry? Carried.

We then go to government motion number 19. Mr. Dhillon.

Mr. Vic Dhillon: Schedule 2 to the bill, subsection 2(1) (Protection for Owners and Purchasers of New Homes Act, 2017, definition of "new home").

I move that paragraph 1 of the definition of "new home" in subsection 2(1) of schedule 2 to the bill be amended by striking out "by common wall" at the end and substituting "by one or more common walls".

The Chair (Mr. Peter Tabuns): Did you want to comment on that? No? Any questions or comments from the rest of the committee? Mr. McDonell.

Mr. Jim McDonell: I guess this just allows for anything new—I guess you can't argue that something with two walls—it's just a clarification in this amendment? Is this just a clarification?

Mr. Vic Dhillon: I'm sorry. What?

Mr. Jim McDonell: The amendment is just a clarification. Is that the point of it?

Mr. Vic Dhillon: Yes.

The Chair (Mr. Peter Tabuns): Any further debate? There being none, I'm going to go to the vote. All those in favour of government motion number 19, please indicate. All those opposed? It is carried.

We then vote on the section as a whole. I'm going to the vote. Shall schedule 2, section 2, as amended, carry? Carried.

Colleagues, there are no amendments in sections 3, 4 and 5. I propose to bundle them together. You're agreed? Shall schedule 2, sections 3 to 5, inclusive, carry? It is carried.

We then go to PC motion number 20. Mr. Coe.

Mr. Lorne Coe: I move that subsection 6(3) of schedule 2 to the bill be struck out and the following substituted:

“Compliance with operating principle

“(3) The administrative agreement shall require the warranty authority to comply with the principle of promoting the protection of the public interest in general, and of consumers in particular.”

Through you, Chair, to my colleague, please.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: I think one of the major concerns we heard against Tarion was its interest was conflicted between the consumer, the members and the builders. We think that this sends an irrevocable message to the warranty authority that its decisions and policies must put the consumer first. We’ve seen, of course, consumer after consumer come before this—Justice Cunningham’s recommendations, that this bill almost entirely ignores, had that belief that the consumer had to be first.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Gates.

Mr. Wayne Gates: I agree with the PC motion on this. The whole idea of this bill was supposed to be about protecting the public and the consumers, and I think, quite frankly, we’ve missed the mark and we certainly could have done a much better of a job than what we currently have under Bill 166. I’ll be supporting the motion.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. Dhillon.

Mr. Vic Dhillon: Chair, we agree and will be voting in favour.

The reason for operating a warranty program in the first place is to protect consumers’ purchases. This administrative authority will also interact directly with consumers. While I understand this motion has the potential to create conflict-of-interest concerns as the warranty authority would be expected to make neutral, objective decisions regarding home warranty claims, the language of the administered agreement itself should make clear that, while claims’ decisions must remain impartial, the principle of the Consumer Protection Act must be at the fore in matters of customer service and interactions, consumer education, the development of recommendations for policy changes, daily operations etc.

The Chair (Mr. Peter Tabuns): Any further discussion?

Mr. Lorne Coe: Recorded vote, please, Chair.

Ayes

Coe, Dhillon, Dong, Gates, Martins, McDonell, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is carried.

We then vote on the section as a whole. I’m going to the vote. Shall schedule 2, section 6, as amended, carry? Carried.

I’ll just note, committee members: When I ask if it’s going to carry, I need to hear you say, “Carried.”

Interjection.

1450

The Chair (Mr. Peter Tabuns): No, it’s useful to have more than one voice. I appreciate, Ms. Vernile, that you’re speaking up; it’s great.

Ms. Daiene Vernile: You’re doing a good job, Chair.

The Chair (Mr. Peter Tabuns): Why thank you.

So we go to section 7. Any discussion? You’re ready for the vote?

Mr. Ted McMeekin: Yes.

The Chair (Mr. Peter Tabuns): Mr. McMeekin, I’m very pleased with your energy, sir.

Shall schedule 2, section 7 carry? Carried.

We then go to NDP motion number 21. Mr. Gates.

Mr. Wayne Gates: Schedule 2 to the bill, section 7.1 (Protection for Owners and Purchasers of New Homes Act, 2017).

I move schedule 2 to the bill be amended by adding the following section:

“Report to regulatory authority

“7.1 The warranty authority shall report the following information to the regulatory authority:

“1. The prescribed information summarizing each claim against a vendor or builder alleging a breach of warranty under section 47 or a failure to make payments under section 48.

“2. The prescribed information summarizing tribunal orders made under subsection 52(17) against a vendor or builder respecting the payment of compensation to a claimant.

“3. The prescribed details of any liens and charges created under section 64 against the property of a vendor or builder.”

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Gates.

Mr. Wayne Gates: The warranty authority must report to a regulatory authority information about claims, compensation and compliance. This motion would ensure that the regulatory authority receives from the warranty authority all the information about the builder and the vendor performance that it needs in order to properly do its job.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. McDonell.

Mr. Jim McDonell: Yes, we think it doesn’t hurt to be specific in the legislation. Surely there’s a lot of stuff that could be done in regulations, but one never knows what the government will pass.

The Chair (Mr. Peter Tabuns): Any further discussion?

Mr. Wayne Gates: Recorded vote.

Ayes

Coe, Gates, McDonell.

Nays

Dhillon, Dong, Martins, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost.

We now go to sections 8 to 14. There are no amendments. I propose to bundle them as a group. There is no disagreement? Excellent. Shall schedule 2, sections 8 to 14, inclusive, carry? Carried.

We now go to NDP motion number 22. Mr. Gates.

Mr. Wayne Gates: Schedule 2 to the bill, section 14.1 (Protection for Owners and Purchasers of New Homes Act, 2017).

I move that schedule 2 to the bill be amended by adding the following section:

“Consumer advocacy

“14.1 The board of the warranty authority shall include members with a background in consumer advocacy.”

The Chair (Mr. Peter Tabuns): Did you want to speak to that, Mr. Gates?

Mr. Wayne Gates: I would, thank you. This mandates that the warranty authority board shall include members with a background in consumer advocacy. I think we’ve heard this over and over and over that you’re not listening to consumers enough, especially with Tarion.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: I think if this board actually exists for consumers, one would expect that it would only be reasonable to have consumer advocates on the board itself.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, you’re ready for the vote?

Mr. Wayne Gates: Recorded vote.

Ayes

Coe, Gates, McDonell.

Nays

Dhillon, Dong, Martins, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

Colleagues, we have no amendments on sections 15 to 23. I propose to bundle them together. There being no objection: Shall schedule 2, sections 15 to 23, inclusive, carry? Carried.

That takes us to section 24 where we have NDP motion number 23. Mr. Gates.

Mr. Wayne Gates: Schedule 2 to the bill, subsection 24(3) (Protection for Owners and Purchasers of New Homes Act, 2017).

I move that section 24 of schedule 2 to the bill be amended by adding the following subsection:

“Exception

“(3) Despite subsection (2), the warranty authority shall not disburse the money described in subsection (1) to the regulatory authority, except as prescribed.”

The Chair (Mr. Peter Tabuns): Any discussion? No discussion? We’re ready—

Mr. Wayne Gates: Yes. Bill 166 allows a warranty authority to transfer money collected via provincially mandated fees to the regulatory authority, but oddly, there are no rules to govern such transfers. There should be. This motion would ensure that all transfers take place according to the rules set out by regulation.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. McDonell.

Mr. Jim McDonell: We agree that the money transferred back to the warranty protector should be controlled, and we would rather see more go to the consumer and less to the administrator.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none—

Mr. Wayne Gates: Recorded, please.

Ayes

Coe, McDonell.

Nays

Dhillon, Dong, Martins, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We then vote on section 24 as a whole. Any debate on section 24? There being none, we’ll go to the vote. Shall schedule 2, section 24 carry? Carried.

We then go to section 25. Any discussion of section 25? No? We now go to the vote. Shall schedule 2, section 25 carry? Carried.

We now have NDP motion number 24: Mr. Gates.

Mr. Wayne Gates: Schedule 2 to the bill, subsection 26(2) (Protection for Owners and Purchasers of New Homes Act, 2017).

I move that subsection 26(2) of schedule 2 to the bill be struck out and the following substituted:

“Form and contents

“(2) The report shall be in a form acceptable to the minister and shall provide at least the following:

“1. A report as to the sufficiency of the warranty authority’s revenues to meet future needs.

“2. If a significant surplus or deficit has been accumulated, an explanation for the surplus or deficit.

“3. A report on the adequacy of the warranty authority’s deposit protection coverage.

“4. Information about the warranty authority’s expenditures related to legal proceedings, including the hiring of lawyers and court costs.

“5. Any other information that the minister requires.”

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Gates.

Mr. Wayne Gates: Yes. Some basic, minimum information is to be included in the warranty authority’s annual report. For example, it would require the warranty authority to explain any surplus it has built up.

Tarion has built up a massive surplus, but we have no idea what it is saving all this money for. It now seems to

have enough money to pay off 60 years' worth of claims at the current rate of payouts.

It would also require that the warranty authority provide details on the accuracy of the deposit protection. Taron initially said that its deposit protection was perfect, even after many Urbancorp buyers lost most of their deposits when the company went bankrupt. Deposit protection should not come under review only when a massive bankruptcy hits the news. The warranty authority shall be regular in reviewing this and publishing regular updates.

This motion would also require that the warranty authority disclose how much money it spends on legal proceedings and lawyers used to fight homebuyers. Taron currently spends much of its money fighting new home buyers in court, but we have no idea how much it's spending or whether this money is being spent in the public's interest.

All of this information the public and the government ought to know, so it should be in the annual report.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. McDonell.

Mr. Jim McDonell: We are in favour of accountability and support this amendment, with one caveat: Proposed paragraph 4 is probably intended to show how much the authority spent arguing consumer complaints before arbitrators, the tribunal and other legal avenues. Disputes arise, and everyone has a right to representation when they are settled. Everyone deserves fair representation, and if the authority believes the consumer's claim is not adequate, they should dispute it.

The Chair (Mr. Peter Tabuns): Mr. Dhillon.

Mr. Vic Dhillon: Chair, I'm requesting a five-minute recess.

The Chair (Mr. Peter Tabuns): A five-minute recess is requested. No objections? We are recessed for five minutes.

The committee recessed from 1500 to 1508.

The Chair (Mr. Peter Tabuns): Members of the committee, we're back in session. We were debating NDP motion 24. I had no further members of the committee interested in speaking to it. Is there anyone interested in speaking to it now? There is not? Then we can go to the vote on NDP motion 24.

Mr. Wayne Gates: Recorded vote.

Ayes

Coe, Gates, McDonell.

Nays

Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We now go to vote on section 26. You're ready for the vote? Shall schedule 2, section 26 carry? It is carried.

Colleagues, we have sections 27 to 40 with no amendments. I propose to bundle them together. Are you

agreed? Excellent. Shall schedule 2, sections 27 to 40, inclusive, carry? They are carried.

We go to PC motion number 25. Mr. Coe.

Mr. Lorne Coe: I move that clause 41(e) of schedule 2 to the bill be struck out and the following substituted:

"(e) has received confirmation,

"(i) from the registrar that the home,

"(A) qualifies for enrolment in the plan, if construction of the home has not commenced, or

"(B) has been enrolled in the plan, if construction of the home has commenced, or

"(ii) if the regulations so provide, from an insurer that the home,

"(A) qualifies for enrolment in a comparable insurance plan specified by the regulations that is provided by the insurer, if construction of the home has not commenced, or

"(B) has been enrolled in a plan referred to in sub-clause (A) that is provided by the insurer, if construction of the home has commenced; and"

To my colleague, Chair, please.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Justice Cunningham's recommendations hinged on the multi-provider model rather than the government's preferred monopoly approach. We agree with the justice's conclusions and want to offer the government a way to explore the option of a multi-provider model further.

If the amendment passes, the monopoly model envisioned in the original bill remains in force until such a time—if there is that time—that the government issues regulations specifying what kind of insurance product the private sector providers may offer as an alternative to the monopoly warranty. This amendment does not commit the government to anything they do not wish to commit to at this time, but allows Ontario to eventually follow the example of the three western provinces which have successfully implemented multi-provider models.

We think that choice is key. We see the recommendations—many of them were ignored—from Justice Cunningham. He spent a lot of time, talked to a lot of consumers, heard a lot of advocates, looked around at different models in different provinces, and saw what worked and what didn't work. We think that this would allow a regulation in the future that would allow for multi-insurers, if the government so chose or if another government in the future chose to do that.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, you're ready for the—oh, Mr. Coe. My apologies.

Mr. Lorne Coe: When you consider the models that are in place in western Canada—and there are three that have already successfully implemented the multi-provider model—there's a wealth of empirical data that supports the premise and direction of this particular proposal before the committee at the present time. I think that if we juxtapose that with the consultative process and the best practices that are in place and have succeeded—because part of this empirical data that is available

demonstrates quite clearly that this model is successful in western Canada and is worthy of consideration here in the province of Ontario as well.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: I think one of the issues that the justice came across was that the consumer did not have any confidence in the original setup that we had. If we're going to give true confidence that we're actually looking after them, that transparency of choosing your own service provider—we have the Tarion model here, but if somebody has the belief that they aren't comfortable with it or it won't work for them, it allows them to have a choice. The premiums would be competitive or it wouldn't work. If nothing else, it will probably keep premiums down.

The Chair (Mr. Peter Tabuns): Any other discussion? There being none—

Mr. Lorne Coe: Recorded vote, please, Chair.

Ayes

Coe, McDonell.

Nays

Dong, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We then go to PC motion number 26. Mr. Coe.

Mr. Lorne Coe: I move that section 41 of schedule 2 to the bill be amended by adding the following subsections:

“Application

“(2) This section applies with respect to the first sale of a new home, if it occurs at any time before the date on which a warranty described in subsection 47(1) expires, as prescribed by regulation under clause 68(1)(f) or, if no such date is prescribed, before the date prescribed for the purposes of this section.

“Same

“(3) For the purposes of subsection (2), the first sale of a new home does not include a transfer of title to the home,

“(a) from its builder to any subsidiary of the builder;

“(b) from its builder to any person associated with the builder, as determined in accordance with the regulations; or

“(c) in any other circumstances that may be prescribed.”

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Warranty coverage for new homes is something consumers should be able to take for granted, and exploitable loopholes in regulations should be closed. If I buy a residential property that is less than seven years old, it should be warrantied.

Under the current rules, some homes may be exempt from the warranty enrolment: if they are to be occupied by the builder, if they were a model home, used as a sales office or if there's a first owner significantly directing the building work, and in other circumstances. The technical-

ity should not harm a consumer who has a reasonable expectation of a warranty.

This amendment rectifies that situation. It allows the government to protect new home buyers more thoroughly. If you sell a home that should be warrantied, you should enrol it in the warranty program, no ifs, ands or buts.

I think everybody knows there are people who make a very good living building a home, living in it for a short time period to avoid the capital gains tax or some of the taxes, and who then turn around and sell it. We're saying not the whole warranty, but what's left in the warranty should be available to the consumer as well. It only makes sense. A lot of these are only held for a few days. We're looking at seven years, because if a home is owned for a year or two years, some of that original warranty—if the steps are passed, that's fine, but what's left in a normal warranty should be warrantied.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none—

Mr. Lorne Coe: Recorded vote.

Ayes

Coe, McDonell.

Nays

Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We now go to the section as a whole. Ready for the vote? Shall schedule 2, section 41 carry? Carried.

We now go to PC motion number 27. Mr. Coe.

Mr. Lorne Coe: I move that clause 42(3)(f) of schedule 2 to the bill be struck out and the following substituted:

“(f) has received confirmation,

“(i) from the registrar that the home has been enrolled in the plan, or

“(ii) if the regulations so provide from an insurer that the home has been enrolled in a comparable insurance plan specified by the regulations that is provided by the insurer; and”

To my colleague, through you, Chair.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: This bill mandates enrolment in the plan in two provisions, one for construction and one for the sale. This amendment makes it such that no person shall build on someone's land unless they have obtained enrolment in either a monopoly warranty or a comparable insurance plan.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none—

Mr. Jim McDonell: Recorded vote.

Ayes

Coe, McDonell.

Nays

Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost.

We go to the vote on section 42 as a whole. Shall schedule 2, section 42 carry? Carried.

Colleagues, sections 43 to 51 have no amendments. I propose to bundle them together. No objections? Good. Shall schedule 2, sections 43 to 51, inclusive, carry? Carried.

We then go to PC motion number 28. Mr. Coe.

Mr. Lorne Coe: I move that subsection 52(14) of schedule 2 to the bill be struck out and the following substituted:

“Dispute resolution

“(14) The right to a hearing before the tribunal does not preclude a claimant from commencing a dispute resolution process in relation to the claim, the costs of which shall be borne by the warranty authority.”

Through you, Chair, to my colleague.

1520

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Justice Cunningham was irrevocable in demanding independent dispute resolution between consumers and the warranty authority. Bill 166 currently does not give the consumer the right to opt for such a resolution. This amendment ensures that if a consumer opts for independent dispute resolution rather than arguing with the authority internally or through the Licence Appeal Tribunal, they can direct the proceeding there and not be second-guessed by the warranty authority.

It's about consumer confidence that the new regulations and the new legislation actually protects them. If, for some reason, they would like to have the ability to go through the courts, I think it's very important that we retain that.

The Chair (Mr. Peter Tabuns): Further discussion on this? Mr. Gates.

Mr. Wayne Gates: Yes. As I read this, it's an oddly worded motion, so I'm not positive what they're trying to get at here. If the goal is to ensure access to a cheaper and quicker dispute resolution process other than courts, then I think that's good, but I'm not sure the motion quite works as written. I'll probably support it, but it's kind of oddly worded.

The Chair (Mr. Peter Tabuns): Any further discussion?

Mr. Lorne Coe: Recorded vote, please, Chair.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We now go to section 52 as a whole. Shall schedule 2, section 52 carry? Carried.

We go to section 53. Any discussion on section 53? There being none, we'll go to the vote. Shall schedule 2, section 53 carry? Carried.

We go to PC motion number 29: Mr. Coe.

Mr. Lorne Coe: I move that section 54 of schedule 2 to the bill be struck out and the following substituted:

“Ombudsperson

“54(1) The warranty authority shall make available an ombudsperson, who shall report to the Legislature.

“Duties

“(2) The ombudsperson shall carry out the following duties:

“1. Inquire into and respond to the administration of this act by the authority.

“2. Make recommendations in respect of the administration of this act by the authority.

“3. Carry out any duties that may be assigned to him or her by the Legislature.

“4. Carry out any duties that may be prescribed.”

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: As with the building regulator, we believe that the ombudsman already provided for in the bill should have the ability and the duty to report to or take direction from the Legislature. If consumers do not have confidence in new home warranties, the building industry and the economy as a whole will suffer. This makes it a matter for the Legislature to be promptly apprised.

Again, I think the whole reason for ordering the review by Justice Cunningham was all about confidence in the system. Since I've been in this role, I've heard from many, many different consumers about the problems we have with the bill and the lack of confidence that they can trust the authority that's there. Justice Cunningham saw that and put some recommendations in place that he thought would take care of some of those issues and the transparency, but unfortunately most of his recommendations were ignored by the government. It makes you really wonder why we went through the process and why they would have some secret hand-picked group of 11 people to come in, be sworn to secrecy and come back with the regulations in this bill.

We have some concerns, and we're really looking for a consumer advocate that's making sure that the consumer is feeling that we have his back. We think it would be good for the construction industry, as it's really our number one industry in this province as it stands right now, as far as manufacturing or any type of labour goes, and we think it's important that we keep this confidence in it so that it continues.

The Chair (Mr. Peter Tabuns): Ms. Martins?

Mrs. Cristina Martins: I just want to thank the member opposite for the proposed motion, which would require the warranty authority ombudsperson to report to the Legislature and carry out any duties assigned by the Legislature.

My recommendation is actually to vote against this motion because Bill 166 already requires the warranty authority to make an ombudsperson available, and there is flexibility for the regulations to specify additional duties of the ombudsperson.

In addition, the bill provides the minister with modern oversight tools, so if there are concerns about how the future warranty authority is administering the act, the bill provides the minister with tools to intervene as appropriate. We're already actually doing what is being proposed by the member opposite, so my recommendation is to vote against the motion.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. McDonell and then Mr. Gates.

Mr. Jim McDonell: I think we've seen a number of times that it's not always in the best interests of the government for information to come through, so I think it's important that the information gets back to the Legislature as a whole, where all three parties can review the information and take the steps that they would see as appropriate at the time, in whatever form that may be.

The Chair (Mr. Peter Tabuns): Mr. Gates?

Mr. Wayne Gates: I appreciate their comments. I agree that an internal ombudsman is better than nothing, but on the grounds that the NDP has an upcoming Ombudsman motion that will accomplish the same worthy intent of this motion but in a more effective and publicly accountable manner, I just want my PC colleagues to understand that they should probably vote against their own and support ours as it comes up. I'm just trying to help them out; that's all.

The Chair (Mr. Peter Tabuns): Mr. McDonell?

Mr. Jim McDonell: I guess I'm just afraid that it will probably be ruled out of order and we'll end up with nothing, because as we've seen in the past, the bill doesn't touch that part of the legislated Ombudsman's duty. So it will likely be ruled out of order.

The Chair (Mr. Peter Tabuns): No further comment?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, McDonell.

Nays

Delaney, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We go then to NDP motion number 30. Mr. Gates.

Mr. Wayne Gates: Section 2 to the bill, section 54 (Protection for Owners and Purchasers of New Homes Act, 2017).

I move that section 54 of schedule 2 to the bill be struck out and the following substituted:

"Ombudsman

"54. The warranty authority is subject to the oversight of the Ombudsman of Ontario."

The Chair (Mr. Peter Tabuns): I'm sorry to say I'm ruling this amendment out of order, as it is beyond the scope of the bill.

We now go to vote on section 54 as a whole. No discussion? Shall schedule 2, section 54 carry? It is carried.

Colleagues, we have sections 55 to 60 with no amendments. I propose bundling them.

Ms. Daiene Vernile: Good idea.

Mrs. Cristina Martins: I agree.

The Chair (Mr. Peter Tabuns): No objections? Excellent. Shall schedule 2, sections 55 to 60, inclusive, carry? They are carried.

We then go to government motion number 31. Ms. Martins?

Mrs. Cristina Martins: Schedule 2 to the bill, clause 61(1)(b)(Protection for Owners and Purchasers of New Homes Act, 2017).

I move that the English version of clause 61(1)(b) of schedule 2 to the bill be amended by striking out "43(5)" and substituting "subsection 43(5)".

This proposed amendment, Chair, is intended to correct a technical drafting error that would bring everything in line.

1530

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, we go to the vote. All those in favour of government motion number 31, please indicate. Opposed? It is carried.

Then we go to vote on the section as a whole. Shall schedule 2, section 61, as amended, carry? That is carried.

We then go to NDP motion number 32. Mr. Gates.

Mr. Wayne Gates: Schedule 2 to the bill, subsection 62(3) (Protection for Owners and Purchasers of New Homes Act, 2017).

I move that section 62 of schedule 2 to the bill be amended by adding the following subsection:

"Information

"(3) The court making an order under subsection (1) shall report to the regulatory authority, in the prescribed manner, the prescribed information respecting the order."

The Chair (Mr. Peter Tabuns): Did you wish to speak to that?

Mr. Wayne Gates: Yes. This is very similar to our number 21. It requires a court making an order with respect to a builder or a vendor to report this to the regulatory authority. It ensures the regulatory authority has all the information it needs to do its job.

The Chair (Mr. Peter Tabuns): Any further debate? There being none, you're ready for the vote? All those in favour of NDP motion number 32, please indicate. All those opposed, please indicate. It is lost.

We then go to vote on section 62 as a whole. Shall schedule 2, section 62 carry? It is carried.

Sections 63 to 66 have no amendments. I propose to bundle them together. No objections? Excellent. Shall schedule 2, sections 63 to 66, inclusive, carry? Carried. Great.

We now go to NDP motion number 33. Mr. Gates.

Mr. Wayne Gates: Schedule 2 to the bill, section 66.1 (Protection for Owners and Purchasers of New Homes Act, 2017).

I move that schedule 2 to the bill be amended by adding the following section:

“Public Sector Salary Disclosure Act, 1996

“66.1 The warranty authority is deemed to be an employer in the public sector for the purposes of the Public Sector Salary Disclosure Act, 1996.”

The Chair (Mr. Peter Tabuns): Mr. Gates, again I apologize. I'm ruling this amendment out of order as it is beyond the scope of the bill.

Then we go to NDP motion number 34. Mr. Gates.

Mr. Wayne Gates: Schedule 2 to the bill, section 66.2 (Protection for Owners and Purchasers of New Homes Act, 2017).

I move that schedule 2 to the bill be amended by adding the following section:

“Freedom of Information and Protection of Privacy Act

“66.2 The warranty authority is deemed to be an institution for the purposes of the Freedom of Information and Protection of Privacy Act.”

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Gates?

Mr. Wayne Gates: Yes. This one is very similar to number 17, and warranty authority is subject to FIPPA.

The Chair (Mr. Peter Tabuns): Any further discussion, other members of the committee? There being none, you're ready for the vote?

Ms. Daiene Vernile: Yes, we are.

The Chair (Mr. Peter Tabuns): All those in favour of NDP motion number 34, please indicate. All those opposed, please indicate. The motion is lost.

We now go to section 67. Is there any discussion on section 67? There's none. We'll go to the vote. Shall schedule 2, section 67 carry? Carried.

We then go to government motion number 35. Mr. Dhillon.

Mr. Vic Dhillon: Schedule 2 to the bill, clause 68(1)(i) (Protection for Owners and Purchasers of New Homes Act, 2017).

I move that clause 68(1)(i) of schedule 2 to the bill be amended by striking out “a determination to make payment of the fund” and substituting “a determination to make payment out of the fund” and by striking out “that may be paid out of the guarantee fund” and substituting “that may be paid out of the fund”.

The Chair (Mr. Peter Tabuns): Did you want to speak to that? No. Anyone else who would like to speak to that? Mr. McDonell.

Mr. Jim McDonell: Just to get an explanation of what this is for.

Mr. Vic Dhillon: I'm sorry, I didn't hear you.

Mr. Jim McDonell: The purpose of the amendment, just—

The Chair (Mr. Peter Tabuns): Thank you, Mr. McDonell. Did you want to address that, Mr. Dhillon?

Mr. Vic Dhillon: Certainly. This change has no impact on the substantive policy underlying the bill and is correcting a technical drafting error. The proposed change would also support consistency with drafting language used in respect of the guarantee fund.

The Chair (Mr. Peter Tabuns): Further discussion? There's none. You're ready for the vote? All those in favour of government motion number 35, please indicate. All those opposed? It is carried.

We then go to government motion number 36. Mr. Dhillon.

Mr. Vic Dhillon: Schedule 2 to the bill, clause 68 (1)(I) (Protection for Owners and Purchasers of New Homes Act, 2017).

I move that the English version of clause 68 (1)(I) of schedule 2 to the bill be amended by striking out “a payment out of the guarantee fund” and substituting “a payment out of the fund”.

The Chair (Mr. Peter Tabuns): Mr. Dhillon, before you go further—just checking up here—you had referred to “68 (1)(I),” and—

Mr. Vic Dhillon: It's an “I.”

The Chair (Mr. Peter Tabuns): So it's an “I” in both cases?

Mr. Vic Dhillon: Yes. Thank you.

The Chair (Mr. Peter Tabuns): Fine. Thank you, sir. Did you want to discuss that further? No? Is there anyone else who wants to discuss this? There being none, we're ready for the vote? All those in favour of government motion number 36, please indicate. Those opposed? It is carried.

We now go to vote on section 68 as a whole. I'm going to the vote. Shall schedule 2, section 68—

Mr. Jim McDonell: Chair, just before we vote, can I ask for a 20-minute recess?

The Chair (Mr. Peter Tabuns): Yes. You have the right to do that.

Mr. Jim McDonell: Okay.

The Chair (Mr. Peter Tabuns): We are recessed for 20—

Interjection.

The Chair (Mr. Peter Tabuns): He has the right to ask for it. I don't know what his reason is, but he has the right to ask for it.

The committee recessed from 1538 to 1558.

The Chair (Mr. Peter Tabuns): The committee is back in session. When we took the break, we were just about to vote on section 68, as amended. Going to the vote: Shall schedule 2, section 68, as amended, carry? Carried.

We go to NDP motion number 37: Mr. Gates.

Mr. Wayne Gates: Yes, sir. I'm going to withdraw 37.

The Chair (Mr. Peter Tabuns): Motion 37 is withdrawn.

We go on to section 69. In fact, colleagues, in sections 69 to 79, there are no amendments. I propose to bundle them. Agreed?

Mr. Ted McMeekin: Carried.

The Chair (Mr. Peter Tabuns): You're fast on the draw today, Mr. McMeekin; very fast.

Shall schedule 2, sections 69 to 79, inclusive, carry? Carried.

Mr. Ted McMeekin: I only have to be admonished once, Mr. Chair.

The Chair (Mr. Peter Tabuns): We go to PC motion number 38: Mr. Coe, please.

Mr. Lorne Coe: I move that subsection 80(1) of schedule 2 to the bill be amended by striking out “on a day to be named by proclamation of the Lieutenant Governor” at the end and substituting “on the first anniversary of the day the Strengthening Protection for Ontario Consumers Act, 2017 receives royal assent”.

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Yes. Making something available for sale is not the same as actually selling it. The amendment makes sure that tickets can't be diverted to the secondary market without—oh, I'm sorry.

The Chair (Mr. Peter Tabuns): No, this is the new homes.

Mr. Jim McDonell: Oh, okay. This is the wrong page.

Consumers shouldn't have to wait until 2020 or even beyond for their warranties. We've discussed this before. It's important. We've had many people come before us talk about the importance of the changes. Now we see a bill that's being rushed through, but it's kind of a “rush through and make me wait.” It's not happening until 2020. Easily, these needed warranty revisions could be done much sooner.

The Chair (Mr. Peter Tabuns): Any further discussion? There being—

Mr. Lorne Coe: Recorded vote, please, Chair.

The Chair (Mr. Peter Tabuns): A recorded vote is requested.

All those in favour of PC motion number 38, please indicate.

The Clerk of the Committee (Ms. Jocelyn McCauley): Mr. Coe, Mr. McDonell.

The Chair (Mr. Peter Tabuns): All those opposed, please indicate.

The Clerk of the Committee (Ms. Jocelyn McCauley): Mr. Delaney, Mr. Dhillon, Ms. Martins, Mr. McMeekin, Ms. Vernile, Mr. Gates.

Mr. Wayne Gates: No, I'm in favour. I had my hand like that, so—I don't think you saw it.

The Chair (Mr. Peter Tabuns): No. We'd counted them, and then I went on to the next vote.

Interjection.

The Chair (Mr. Peter Tabuns): Okay. So it is lost.

We go to section 80 as a whole. Any discussion on section 80? There being none, we go to the vote. Shall schedule 2, section 80 carry? Carried.

We go to section 81. Any discussion on section 81? There being none, we go to the vote. Shall schedule 2, section 81 carry? It is carried.

Shall we go to the vote on the schedule as a whole? Shall schedule 2, as amended, carry? It is carried.

We now go to PC motion number 39. Mr. Coe.

Mr. Lorne Coe: I move that the definition of “secondary seller” in section 1 of schedule 3 to the bill be

amended by striking out “tickets that were originally made available for sale by a primary seller” at the end and substituting “tickets that were previously sold by a primary seller”.

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Getting back to this: Making something available for sale is not the same as actually selling it. This amendment makes sure that tickets can't be diverted to the secondary market without first being sold in the primary market in the first place. We've seen that, in the major bad cases that have happened in the past, this is indeed what has happened. There are a number of amendments that will give people, at least from Ontario, a chance to have first crack at these tickets. I think, really, fair is fair. We've talked about that there is a suitable amount of holdback tickets that can be defined in the legislation and we agree with that as well. But people need to have what's for sale—and they need to be on the up- and-up.

The Chair (Mr. Peter Tabuns): Further discussion?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We go to PC motion number 40. Mr. Coe.

Mr. Lorne Coe: I move that the definition of “secondary ticketing platform” in section 1 of schedule 3 to the bill be amended by striking out “ticket sellers, other than primary sellers” and substituting “secondary sellers”.

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Some venues or artists may want to use established ticketing platforms to sell tickets, including platforms that may also cater to the secondary market. It's important not to limit their choice of ticketing platform to use, while at the same time ensuring all those who facilitate the secondary market are encompassed by this legislation. This amendment would achieve that.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, we'll go to the vote.

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We then go to vote on the section as a whole. Any discussion? There is none. We're going to the vote. Shall schedule 3, section 1 carry? It is carried.

We then go to PC motion number 41: Mr. Coe.

Mr. Lorne Coe: I move that schedule 3 to the bill be amended by adding the following section under the heading "Ticket Sales":

"Limit on tickets not available to general public

"1.1(1) At least 75 per cent of the tickets to an event that are made available for sale by a primary seller shall be made available for sale to the general public.

"Exception

"(2) Subsection (1) does not apply with respect to such tickets or classes of tickets as may be prescribed."

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Reports show that some events had as many as 75% of their total tickets held back by sponsors, pre-sale and other distribution avenues. This created both an unofficial shortage of public tickets and consumer frustration. A 25% cap on holdbacks is fair and reasonable. Subsection (2) allows the government to prescribe exemptions from the 75% calculation, such as corporate boxes.

Our intent here is that we should have a fair and open market, with some fair holdbacks—we're suggesting 25%—plus some other exceptions for the industry itself. But in the end, this bill is all about servicing consumers and giving them the confidence to invest in the market. We think some of these holdbacks are just reasonable.

The Chair (Mr. Peter Tabuns): Any further discussion?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, McDonell.

Nays

Delaney, Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We then go to PC motion number 42: Mr. Coe.

Mr. Lorne Coe: I move that schedule 3 to the bill be amended by adding the following section under the heading "Ticket Sales":

"Permissible restrictions on sale by primary seller

"1.2(1) A primary seller may or, if the regulations so provide, shall, in the first hour during which it makes tickets to an event available for sale, apply such restrictions on the sale of the tickets as may be prescribed.

"Same

"(2) Restrictions prescribed for the purposes of subsection (1) may include a restriction on the sale of tickets to ticket purchasers without an Ontario billing address or Internet Protocol address."

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Saskatchewan has a restriction in place where only that province's residents can buy tickets for the first hour of sale. This amendment implements a soft version of that restriction. Primary sellers will be able to enforce the restriction voluntarily, subject to regulations, or the government may impose such a regulation on the industry if it sees fit. We think it's a reasonable compromise between permission and imposition.

It is something that can be done. We're not looking at a perfect solution, but any solution that would allow sellers in the province, in Toronto, who actually buy the tickets—it doesn't really hold back any sale outside, other than in the first hour.

It certainly would help in the case of bots. It would require buyers at large—certainly the secondary market—to register in Ontario if they want that first hour. If not, then it gives that period of time where at least local people would have more of an opportunity to purchase the tickets.

The Chair (Mr. Peter Tabuns): Any further discussion?

Mr. Lorne Coe: Recorded vote, please, Chair.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost.

We now go to section 2. We have PC motion number 43: Mr. Coe.

1610

Mr. Lorne Coe: I move that subsection 2(1) of schedule 3 to the bill be amended by adding "or such other value as may be prescribed with respect to the ticket" after "the ticket's face value" in the portion before paragraph 1.

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Some tickets may have a face value; others may not. What is the face value of a free ticket given by an artist to their friends or family that is unused or sold off? What is the face value of a season's ticket holder's ticket to a Leafs-Senators game or that of a ticket of the same value for somebody that may be in last place and not of any interest to the city? If a venue uses dynamic pricing, is the face value the value of the ticket sold at the lowest price or the price that the consumer paid for it at the primary seller? We need the government to be able to clarify these issues in regulation, which is why we pose the amendment. It doesn't impose; it allows the government to make an amendment if there is an issue in the future.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none—

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost. We go, then, to PC motion number 44. Mr. Coe.

Mr. Lorne Coe: I move that paragraph 2 of subsection 2(1) of schedule 3 to the bill be amended by striking out “a ticket that was originally made available for sale by the primary seller” and substituting “a ticket that was previously sold by a primary seller”.

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Again, I think that one of the biggest complaints we heard, through the concerts in Toronto last year, was the fact that this does not occur. So this is, again, the difference between making something available for sale and actually selling it. The amendment ensures that tickets must clear through a primary market before making their way to the secondary market. It basically tightens those rules with some companies that are selling in both primary and secondary. I think that if you're truly selling something at face value, they should go through the system first and give everybody a chance to purchase it.

The Chair (Mr. Peter Tabuns): Further discussion?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We then go to PC motion number 45. Mr. Coe.

Mr. Lorne Coe: I move that subsection 2(2) of schedule 3 to the bill be amended by striking out “that exceeds the ticket's face value by more than 50 per cent of the ticket's face value” at the end and substituting “that exceeds, in relation to the ticket, the prescribed amount or amount calculated in the prescribed manner, as the case may be”.

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Price caps haven't worked elsewhere, and this government is no stranger to getting caught in its own plans. When they panicked about hot water heaters and set a cooling-off period of 20 days, they then needed another piece of legislation to bring down the period to 10 days, as we had suggested in the

first place. When the government realizes that the 50% cap hasn't worked and has created a strong black market, they will then want to correct the situation. Without this amendment, they would need another bill. If the amendment passes, they would be able to set the initial cap and raise it, amend it or remove it by regulation. We know that they want to impose a cap. We are giving the government a way to rectify the unintended consequences of it rapidly, should the case arise.

The issue with many of the resellers is that they're international. We do not have any control over international—if people decide, through the Internet, to purchase through something that is not regulated through this bill, the government, of course, has no access to enforcing any of its regulations. It will also drive people away from the good players that want to actually be good corporate players. It drives business away from them to the States.

I had a case in purchasing tickets on what I thought would have been a Canadian site, aircanadacentre.com, and when I went through and was paying for it, I found out that it was actually in American dollars, and it was being handled through Chicago.

There's nothing saying that those things can't go on, but I think that we just drive more and more of that type of behaviour if we put a price cap on it. We're being told by too many people that it will be a problem. I think sometimes you have to listen to the market.

The Chair (Mr. Peter Tabuns): Any further discussion?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, McDonell.

Nays

Delaney, Dhillon, Gates, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We go to PC motion number 46. Mr. Coe.

Mr. Lorne Coe: I move that subsection 2(3) of schedule 3 to the bill be amended by striking out “a ticket that was originally made available for sale by a primary seller” at the end and substituting “a ticket that was previously sold by a primary seller”.

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: A ticket to an event must clear the primary market first if it is to be made available to the general public. This is a simple principle and what I thought was one of the purposes of this bill: to stop the practice that we saw with the Tragically Hip, where these tickets were not sold in the primary market. They were made available at much escalated prices. We're just saying that if this bill is really going to be true to what it is promising, it's a reasonable expectation that tickets must be sold through the primary market first.

The Chair (Mr. Peter Tabuns): Any further discussion?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, Martins, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We then go to vote on section 2 as a whole. We're going into the vote. Shall schedule 3, section 2 carry? It is carried.

We then go to schedule 3, section 3. Is there any discussion? There is none. We will then go to the vote. Shall schedule 3, section 3 carry? It is carried.

We then go to PC motion number 47. Mr. Coe.

Mr. Lorne Coe: I move that schedule 3 to the bill be amended by adding the following section:

"Paper ticket

"3.1(1) Every person who makes a ticket available for sale shall make it available to be purchased in paper form, at the option of the ticket purchaser.

"Exception

"(2) Subsection (1) does not apply with respect to such tickets or classes of tickets as may be prescribed.

"Prohibition, fees for delivering paper ticket

"(3) No person shall charge a fee or service charge for delivering a purchased ticket in paper form to the ticket purchaser, other than the costs of delivery."

To my colleague, please.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: New York implemented legislation similar to this to ensure that tickets had the transferability required for a healthy secondary market. We also do not see why consumers should not be offered the option of a paper ticket at no extra cost but the cost of delivery, especially when such a ticket is to be given as a gift or otherwise transferred.

We also understand that some consumers may not have a paper ticket to resell—for instance, secondary sellers who did not opt for a paper ticket in the first place when they bought it from the primary seller. This is why we insert the government's ability to exempt classes of tickets as appropriate.

I'll give you an example: I'm a season's ticket holder to the Redblacks. This year and for the last couple of years, you receive a card that's good for every game, but you have the ability to get a ticket. It's hard for me to get to every game. I know there are only nine, but if you're a season's ticket holder for the NHL, where you're talking about well over 40 games when you start talking about the playoffs, having the ability to give that ticket away without giving the card that they issue away as well, which really controls the rest of the tickets in the season—that's just an example of where people who

want to give away a ticket need that paper copy or some form so that they can hand that off without having to worry about losing the balance of their tickets. There are different applications for that; that's one example. But lots of times there's a cost to that, a cost of delivery, but I think it's a suitable example, maybe, of what's fair to the consumer.

1620

The Chair (Mr. Peter Tabuns): Are there any other speakers on this? There are none?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

Mr. Jim McDonell: Mr. Chair, a point of clarification: In the case of the Ottawa Redblacks, they give you a choice of being able to get a paper ticket. I didn't want to give the idea that they didn't, but many don't.

The Chair (Mr. Peter Tabuns): Thank you.

We then go on to section 4, and we have PC motion number 48: Mr. Coe.

Mr. Lorne Coe: I move that subsection 4(1) of schedule 3 to the bill be struck out and the following substituted:

"Prohibition, use or sale of certain software

"(1) No person shall use or sell software, including automated ticket purchasing software, intended to circumvent,

"(a) a security measure, access control system or other control or measure on a website, online service or electronic application of a ticket business that is used to enforce ticket purchasing limits or to maintain the integrity of the ticketing platform's purchasing rules; or

"(b) any other control, measure or system that may be prescribed."

To my colleague, please.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: I know that the government talks about trying to eliminate the use of bots. We just think that this amendment would be appropriate. It expands the government's power to address the use of ticket-buying bots to ensure all forms of bot use, whichever control they bypass, are illegal. I think that the general public has spoken on that, and they don't like the idea of using computers to buy up all the tickets. There are holes in the legislation, and this just allows the government to, through regulation, as technology changes or as exceptions are found out, make those changes.

The Chair (Mr. Peter Tabuns): Any further discussion?

Mr. Lorne Coe: Recorded vote.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We then to go government motion number 49. Mr. Dhillon.

Mr. Vic Dhillon: Schedule 3 to the bill, subsection 4(1) (Ticket Sales Act, 2017).

I move that subsection 4(1) of schedule 3 to the bill be struck out and the following substituted:

“Prohibition, use or sale of certain software

“(1) No person shall use or sell software, including automated ticket purchasing software, intended to circumvent any of the following on a website, online service or electronic application of a ticket business:

“1. A security measure that is used to ensure an equitable ticket buying process.

“2. An access control system that is used to ensure an equitable ticket buying process.

“3. Any other control or measure that is used to ensure an equitable ticket buying process.

“4. A prescribed control, measure or system.”

Our rationale for this is that it would make a technical amendment to paragraphs 1 and 2 of subsection 4(1) to clarify that the prohibition against the use or sale of software applies to software that is intended to circumvent a security measure that is used to ensure an equitable ticket-buying process or an access control system that is used to ensure an equitable ticket-buying process.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. McDonell.

Mr. Jim McDonell: I looked through this. Is there any acknowledgement or belief that this would actually control any company outside of the province of Ontario?

The Chair (Mr. Peter Tabuns): Did anyone wish to respond to that? Mr. Dhillon, are you calling someone forward?

Mr. Vic Dhillon: Yes, Chair. I've asked for some advice.

Interjections.

Mr. Vic Dhillon: Can you repeat the question, Mr. McDonell?

Mr. Jim McDonell: Well, we're just wondering, does this legislation really have any teeth when it comes to dealing with anybody outside the country of Canada or the province of Ontario? It sounds great, but really, I think the biggest problem we have with bots is not within the country but actually internationally.

Mr. Lorne Coe: Can we have a staff person come up—

The Chair (Mr. Peter Tabuns): We can ask; I can't direct.

Are you going to have a staff person come to speak to this, Mr. Dhillon?

Mr. Vic Dhillon: Yes, Chair. We'll just be a moment.

The Chair (Mr. Peter Tabuns): Okay, thank you.

Would you identify yourself for Hansard before you give your answer.

Ms. Rosemary Logan: I'm Rosemary Logan, counsel with the Ministry of the Attorney General. The proposed Ticket Sales Act would apply to tickets for any event in Ontario, whether the transaction is outside of Ontario or not.

The Chair (Mr. Peter Tabuns): Did you have a further question, Mr. McDonell?

Mr. Jim McDonell: I'm just wondering, how do you enforce this on a company that's not within the province; it's out of the country?

Ms. Rosemary Logan: Well, there are different requirements in the proposed act. Some of them: Businesses are required to have an address in Ontario, which could be a link for enforcement. There's also a right to take private action against companies whether they are Ontario companies or not. Those are some of the ways that actors from outside of Ontario could be addressed.

Mr. Jim McDonell: I guess at this point, I don't think there's any—it's a novel approach and I'm not really knocking it, but I don't think there's any way of stopping this if a company in country X internationally, or even through our American partners—if there's a company down there with an American address that's buying over the Internet through a bot, there's really nothing you can do. It's a best effort only.

Ms. Rosemary Logan: Yes. They can be charged for contravening the act, though, and not only contravening the bots provision, but also the failure to have an address in Ontario. So there would be a couple of approaches.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Logan. Mr. McDonell, that was it?

Mr. Jim McDonell: That's good. Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much.

Is there any further discussion on this? If there isn't, then we can go to the vote. All those in favour of government motion number 49, please indicate. All those opposed, please indicate. It is carried.

We then go to PC motion number 50. Mr. Coe.

Mr. Lorne Coe: I move that subsection 4(3) of schedule 3 to the bill be struck out and the following substituted:

“Prohibition, sale of tickets acquired using certain software

“(3) No person shall knowingly,

“(a) make a ticket that was obtained through the use of software described in subsection (1) available for sale; or

“(b) facilitate the sale of such a ticket.”

And, Chair, through you to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: There's often no way to automatically verify whether a ticket entering the secondary market was bought by a bot or by an individual, so secondary ticketing platforms must do their due diligence or be made to perform it. However, they should not be

held automatically guilty if they have no way of verifying the ticket source.

Again, we're talking, I guess, the belief that bots can be very difficult to stop sometimes. We're asking for the best effort, and if there's no reasonable way of stopping it, as I said, we don't want the secondary ticket sellers to be automatically held guilty.

The Chair (Mr. Peter Tabuns): Any further discussion?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We'll now go to vote on the section as a whole. Shall schedule 3, section 4, as amended, carry? Carried.

From there, we go to government motion number 51 and section 5. Is that you, Mr. Dhillon?

1630

Mr. Vic Dhillon: Yes, sir.

Schedule 3 to the bill, subsection 5(1) (Ticket Sales Act, 2017).

I move that subsection 5(1) of schedule 3 to the bill be struck out and the following substituted:

"Primary seller to disclose ticket numbers

"(1) Before making any tickets to an event available for sale, a primary seller shall publicly disclose, on its website or otherwise, the following information:

"1. The distribution method of all of the tickets to the event that will be made available for sale by the primary seller, including any sale that will occur before tickets are made available for sale to the general public.

"2. The maximum capacity for the event."

The Chair (Mr. Peter Tabuns): Did you wish to address that, Mr. Dhillon?

Mr. Vic Dhillon: I think it's pretty self-explanatory.

The Chair (Mr. Peter Tabuns): Fair enough. Any other speakers? Mr. Gates, and then Mr. McDonell.

Mr. Wayne Gates: I obviously have a concern with this. It removes the proposed requirement that the primary ticket seller disclose the total number of tickets to an event that will be made available to the general public. This is one of the strongest consumer protection provisions of the act, and this motion, if carried, will significantly weaken the intention of the act.

I won't be supporting it.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: One of the main issues or discussion points around this bill, when it was identified, was the need for this very point. The amendment flies in the face of the government's stated intention to protect fans and help them to make an informed choice.

Fan frustration and artificial price inflations are caused, among other factors, by the high number of hold-backs that create an artificial shortage. We have yet to hear a realistic or founded argument against the disclosure of how many tickets fans will be able to buy to an event that they want to attend. The government may keep disclosures about the method of distribution, but there's no mention about how the tickets are to be distributed by each method.

Again, people should know—not the maximum capacity for the event, but we want to know just how many tickets are going to be sold. Consumers need to know that. In cases where there's a very small number actually being released in the primary market and we see thousands released afterwards, that doesn't serve the consumer very well. If it's truly a consumer protection bill as the government talks about, I'm surprised that they're changing this and taking that part of the bill out.

The Chair (Mr. Peter Tabuns): Mr. Dhillon.

Mr. Vic Dhillon: Chair, I'd like to add that we heard from artists that by mandating ticket resellers to provide the total number of tickets available to an event, Ontario would deter popular acts from performing in regional markets outside of Toronto. This requirement would not provide fans with accurate information, as the total number of tickets can change with actions like moving the stage or marketing promotions.

Additionally, we have had concerns that this information could be used by bad actors who could identify with more accuracy which tickets they should be focusing their efforts on. Ultimately, this section would have negatively impacted artists and would not have given fans additional information to inform their choice.

We believe removing this section strikes the right balance to ensure artists see Ontario as a great market to entertain and provide fans the information they need, including pre-sales and venue capacity.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. McDonell.

Mr. Jim McDonell: We've already talked about the ability to hold back 25% of the tickets as an option, which the government did not see fit to agree with. But we're talking about the consumer knowing just a simple matter of how many tickets are going to be for sale. We don't see that as a huge inhibitor.

Putting the maximum capacity to an event really means nothing. I mean, you can put exceptions in to allow for small technical movements of the stage. Those types of things don't typically change the capacity by very much. We're talking about drastic numbers here, where very small amounts are actually put up for sale, sometimes in the hundreds, and then you see tens of thousands sold after—or more than 10,000 sold after—in the secondary market. That really is not healthy for the consumer market. It doesn't give the consumer much confidence, and you drive people away from these events. If they constantly have in the back of their mind that they're being taken for granted, these concerts become more and more difficult to actually hold.

The Chair (Mr. Peter Tabuns): Further discussion?
There being—

Mr. Lorne Coe: Recorded vote.

Ayes

Delaney, Dhillon, Martins, McMeekin, Vernile.

Nays

Coe, Gates, McDonell.

The Chair (Mr. Peter Tabuns): It is carried.

We then go to PC motion number 52: Mr. Coe.

Mr. Lorne Coe: I move that section 5 of schedule 3 to the bill be amended by adding the following subsections:

“Tickets not available to general public

“(3) If fewer than 75 per cent of the tickets to an event that are made available for sale by a primary seller are made available for sale to the general public, the primary seller shall indicate that fact, in a clear, prominent and comprehensible manner, in every offer respecting the tickets and in any advertisement or promotion of the offer.

“Exception

“(4) Subsection (3) does not apply with respect to such tickets or classes of tickets as may be prescribed.”

To my colleague, please.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Fans deserve to know if the tickets offered to the general public for sale would be a fraction—often a small one—of the total tickets made available for the event. Passing this amendment will ensure that consumers can make an informed choice about where, how, when and whether they should buy a ticket.

Again, we think that holdbacks of 25% certainly allow for—or some number close to that—a lot of the programs that the market puts out—American Express has a program where you can buy tickets earlier. That’s great. But I think that it’s reasonable for public protection and confidence that we pass this amendment.

The Chair (Mr. Peter Tabuns): Further discussion?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost.

We then go to vote on section 5 as a whole. Shall schedule 3, section 5, as amended, carry? Carried.

We now go to PC motion number 53 in section 6: Mr. Coe.

Mr. Lorne Coe: I move that clause 6(1)(b) of schedule 3 to the bill be amended by adding “or such other value as may be prescribed in relation to the ticket” after “the face value of the ticket”.

To my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Some tickets’ face value may be disputed if they never were assigned one in the first place. It is important to be fair to consumers who become secondary sellers, or those who may have received a holdback for nothing or a nominal fee, or wish to get rid of a ticket that they have purchased.

Having a face value on something only makes sense. If you’re buying something or if you later on wanted to sell in the secondary market, it’s tough to sell something that there is no perceived value for.

The Chair (Mr. Peter Tabuns): Further discussion?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, McDonell.

Nays

Delaney, Dhillon, Gates, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost.

We then go to PC motion number 54: Mr. Coe.

Mr. Lorne Coe: I move that clause 6(2)(a) of schedule 3 to the bill be amended by adding “or such other value as may be prescribed in relation to the ticket” after “the face value of the ticket”.

To my colleague, please.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Again, providing a face value for a ticket only seems fair. I have gone to a number of events, and there is always a price on the ticket. Before anybody buys something, it’s always important to know what the tickets are selling for.

The price of a ticket dictates where it is in the stadium. Better tickets are more expensive. If you’re receiving something that has no value on it, it’s like some of the scalpers—if you go to a hockey game and you’re not familiar with the stadium, you don’t know what you’re buying. It could be a great seat; it could be one in the rafters; it could be one behind a stairwell. The tickets are usually priced based on that.

Again, this is a consumers’ bill that is supposed to be looking after problems we have seen with ticket sales when it comes to consumers. A thing like this may seem small, but I think the general public uses this to a great extent to know just what they’re buying and what the true value is.

1640

The Chair (Mr. Peter Tabuns): Is there any further discussion on this motion? There being none, we go to the vote.

Mr. Lorne Coe: Recorded vote, please, Chair.

Ayes

Coe, McDonell.

Nays

Delaney, Dhillon, Gates, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost. We then go to government motion number 55. Mr. Dhillon.

Mr. Vic Dhillon: Schedule 3 to the bill, subsections 6(2) and (3) (Ticket Sales Act, 2017).

I move that subsection 6(2) of schedule 3 to the bill be struck out and the following substituted:

“Secondary sale

“(2) Every secondary seller that makes a ticket available for sale shall ensure that the offer,

“(a) discloses the face value of the ticket and the total price of the ticket; and

“(b) includes a separately itemized list of any applicable fees, service charges and taxes.

“Secondary ticketing platform

“(3) Every operator of a secondary ticketing platform that facilitates the sale of a ticket shall ensure that the offer,

“(a) discloses the face value of the ticket and the total price of the ticket; and

“(b) includes a separately itemized list of any applicable fees, service charges and taxes.”

The Chair (Mr. Peter Tabuns): Did you wish to speak to that? No? Any other discussion? Mr. McDonell.

Mr. Jim McDonell: Our concerns regarding the definition of “face value” remain, and we wish the government would address them before implementing this legislation. We do not oppose fee itemization or disclosure of the ticket’s face value or fair value.

The Chair (Mr. Peter Tabuns): No further discussion? We’ll go to the vote. All those in favour of government motion number 55, please indicate. All those opposed? It is carried.

With that, we go to vote on section 6 as a whole. Shall schedule 3, section 6, as amended, carry? Carried.

Then we go to PC motion 56. Mr. Coe.

Mr. Lorne Coe: I move that subsection 7(2) of schedule 3 to the bill be struck out and the following substituted:

“Canadian currency to be used unless otherwise indicated

“(2) The ticket business shall ensure that any dollar amounts in the offer are listed in Canadian currency, unless the offer indicates that a different currency is used and such indication is made up front and in a clear, prominent and comprehensive manner.”

To my colleague, please.

The Chair (Mr. Peter Tabuns): Just before we go to your colleague: I had heard you say “comprehensive” instead of “comprehensible.” Did you mean comprehensible?

Mr. Lorne Coe: Yes, correct: “comprehensible.” Thank you.

The Chair (Mr. Peter Tabuns): Thank you, sir. We go to Mr. McDonell.

Mr. Jim McDonell: Canadian consumers should not be faced with the surprise of finding out that the quoted ticket price is in US dollars halfway through their transaction or almost at the end of it. If the event is held in Canada, platforms should sell the ticket in Canadian dollars.

I go on with an event where I purchased a ticket at the Air Canada Centre. I went to aircanadacentre.com and found out, when checking out, that the tickets were in American dollars and that there was an American fee to have them delivered from a site in the US. I just think that’s wrong. I might have purchased it anyway, but I think that when you’re going through it, you should know from the beginning that these dollars are in American dollars. One would typically assume that when you’re purchasing a ticket at the Air Canada Centre and you’re buying it on a website that says “aircanadacentre.com,” you might be dealing in Canadian dollars. That’s the type of thing that happens.

The Chair (Mr. Peter Tabuns): Is there further discussion?

Mr. Lorne Coe: Recorded vote.

The Chair (Mr. Peter Tabuns): Sorry. Mr. Gates, did you want to speak to this?

Mr. Wayne Gates: He got ahead of himself there, Lorne. I thought I’d throw him off his routine, with his little sign there.

This is interesting to me. I’ll openly admit that sometimes I buy sports tickets. I used to buy a lot of Blue Jays tickets, and nothing drives me nuts worse than seeing that I got a deal for \$2 for a Blue Jays game and then I’ve got to pay in US funds for the service charges and stuff. So I believe it should be done in Canadian dollars and you should be fully aware of it before you go through the process, because it is quite a long process to buy tickets. So I’m in support of this motion by the PCs.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, we’ll go to the vote.

Mr. Jim McDonell: Recorded vote.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, Martins, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost.

We then go to vote on section 7 as a whole. Is there any discussion of section 7? There is none. Shall schedule 3, section 7 carry? It is carried.

Now, colleagues, we’re going to change the order here. We’re going to deal with PC motion number 58. It makes more sense to deal with this motion before moving

on to subsequent motions. You're ready? We will go to PC motion 58: Mr. Coe.

Mr. Lorne Coe: I move that subsection 8(2) of schedule 3 to the bill be struck out and the following substituted:

"Secondary ticketing platform, requirements

"(2) A secondary ticketing platform that facilitates the sale of a ticket by a secondary seller shall ensure that the ticket offer includes,

"(a) the secondary seller's name, location and contact information, if the secondary seller is a corporation or a member of a prescribed class of individual; or

"(b) if the secondary seller is an individual who is not a member of the class prescribed for the purposes of clause (a), a statement that the secondary seller is an individual."

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Corporations and individuals buying tickets in blocks and making a business out of it should be named and held accountable, including for tax purposes. We support this intent. We wish to guarantee privacy, however, to the average fan who, once in a while, may not use the ticket that they bought.

In practice, if somebody has thousands of transactions per month, this person is clearly not a fan buying tickets for a game for themselves or their friends and then seeing their plans fall through; there is a business, and it should be named in the transaction. So people should be aware, again, of what they're buying and where it's from.

We also want to make sure that season ticket holders who would like to—in the case of a hockey game or a basketball game where you're dealing with 50-plus games in the season, you may only have the ability to go to something less than that. This gives the ability to sell those tickets off so that they can actually afford the tickets themselves.

Anyway, we just see this as important and hope everybody agrees with it.

The Chair (Mr. Peter Tabuns): Is there anyone else who wishes to speak to this motion? If not, we'll go to the vote.

Mr. Lorne Coe: Recorded, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Martins, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We now go to government motion number 57: Ms. Martins.

Mrs. Cristina Martins: Schedule 3 to the bill, subsection 8(2) (Ticket Sales Act, 2017).

I move that subsection 8(2) of schedule 3 to the bill be amended by striking out "A secondary ticketing plat-

form" at the beginning and substituting "An operator of a secondary ticketing platform".

The Chair (Mr. Peter Tabuns): And did you wish to speak to that?

Mrs. Cristina Martins: I suggest that we all support this. How's that? Is that a good recommendation?

The Chair (Mr. Peter Tabuns): Okay. Did anyone else want to speak to that? No? A strong argument, apparently. We'll go, then, to the vote. All those in favour of government motion number 57, please indicate. Opposed? It is carried.

We then go to the vote on the section as a whole. Any discussion of the section? There being none, shall schedule 3, section 8, as amended, carry? It is carried.

Section 9: We have no amendments. Is there any discussion of section 9? There is none. I am going to the vote. Shall schedule 3, section 9 carry? It is carried.

We then go to NDP motion number 59. Mr. Gates.

1650

Mr. Wayne Gates: I move that schedule 3 to the bill be amended by adding the following section:

"Limit on holdbacks

"9.1 A primary seller shall make available for sale to the general public at least 75 per cent of all tickets for an event, other than,

"tickets that are held or committed through a season ticket subscription or other type of subscription;

"(b) tickets for corporate, executive or luxury suites; and

"(c) prescribed types or classes of tickets."

The Chair (Mr. Peter Tabuns): Before we go further, Mr. Gates, I didn't hear you say "(a)" at the beginning of the first of the three. Did you mean to say (a)?

Mr. Wayne Gates: Yes, sir.

The Chair (Mr. Peter Tabuns): Thank you.

Mr. Wayne Gates: Sorry about that.

The Chair (Mr. Peter Tabuns): No problem. Did you want to speak to this, Mr. Gates?

Mr. Wayne Gates: No, I think it's self-explanatory.

The Chair (Mr. Peter Tabuns): Anyone else wish to speak to this? Seeing none, we'll go to the vote. All those in favour of NDP motion number 59, please indicate. All those opposed, please indicate. It is lost.

We then go to NDP motion number 60. Mr. Gates.

Mr. Wayne Gates: Schedule 3 to the bill, section 9.2 (Ticket Sales Act, 2017).

I move that schedule 3 to the bill be amended by adding the following section:

"Paper tickets

"9.2 Every primary seller that sells a ticket to a ticket purchaser shall provide the ticket in paper form, without charge, if requested by the ticket purchaser."

The Chair (Mr. Peter Tabuns): Did you want to speak to that?

Mr. Wayne Gates: Every primary seller must provide a purchaser with a hard copy of their ticket upon request. That's really what it says. When I go to sporting events—except the Redblacks; I've never been to a Redblacks

game—I actually enjoy having the ticket in my hand, quite frankly.

The Chair (Mr. Peter Tabuns): Any other discussion? Mr. McDonell.

Mr. Jim McDonell: Again, you sometimes buy tickets with the intent of going and something comes up and you can't go. It's nice to be able to hand it off to somebody. It makes it a little bit harder for somebody to claim they have a ticket. I know somebody that has arrived at the front door of an event and found out that their ticket was of no value. If you don't really have something that you can verify upfront, it's very difficult, so we think it's only fair. A reasonable cost—it might be mailing or the cost of printing. In some circumstances, it's up to the consumer if they want it. But there's always that bonus that if you want a ticket or you want to give it away, you need that copy.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Gates.

Mr. Wayne Gates: Well, it's been a long afternoon, so I'm going to kind of lighten up the mood here. I actually bought a ticket, a paper ticket, from one of my colleagues from the Liberal Party. When I got to the game—I was all excited; it was a Blue Jays game. I had my buddy come in from St. Catharines. We're going to the game, and guess what happened? It was the wrong paper ticket. So I didn't have the ticket to the game, and when I tried to use the paper ticket, we couldn't get into the game. I won't mention his name, but he has been here longer than most of us. So, I thought, there's a perfect example of why you need that ticket to get into a game, rather than paper.

Mr. Jim McDonell: And you couldn't read that little stamp—

Mr. Wayne Gates: Oh, it was awful—anyway. I tried to bring a smile to your faces.

Mr. Vic Dhillon: He doesn't use a computer, either.

The Chair (Mr. Peter Tabuns): No, he does not.

Any further discussion? There being none, we'll go to the vote. All those in favour of NDP motion number 60, please indicate. All those opposed, please indicate. The motion is lost.

We now have sections 10 and 11 where we have no amendments. I propose to bundle them together. No objections? Excellent. Shall schedule 3, sections 10 and 11 carry? They are carried.

We then go to PC motion number 61. Mr. Coe.

Mr. Lorne Coe: I move that schedule 3 to the bill be amended by adding the following section:

“Order to dismiss frivolous, vexatious action

“11.1(1) The court may, on motion or on its own initiative, dismiss an action brought under section 11 if the action appears on its face to be frivolous or vexatious or otherwise an abuse of the process of the court.

“Summary procedure

“(2) The court may make a determination under subsection (1) in a summary manner, in accordance with the rules of court.”

Through you, Chair, to my colleague.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: The ticket-selling business can often be very competitive, and the temptation to waste your competitor's resources in court costs could be strong. We believe that everyone deserves the right to have recourse if they feel they have been wronged with respect to the provisions of this act, and defer to the court's knowledge and authority to determine whether the complaints have merit. If businesses sue each other to frustrate each other, these claims should be easily dismissed on sight.

We've heard from, especially, some of the smaller people in the market. In other markets, bigger companies have tied up smaller companies in court with the idea of putting them out of business. This gets away from the possibility of this. We think that if the courts rule that it is frivolous, they have the opportunity to actually dismiss it. Again, we're looking at the best price for consumers. The best way to guarantee a good price is to have lots of competition.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Delaney.

Mr. Bob Delaney: I appreciate the point, Chair, but the fact of the matter is that it isn't necessary. In fact, section 140 of the Courts of Justice Act already provides that the court may order that a proceeding is vexatious, and rule 2.1 of the rules of civil procedure provides that a court may stay or dismiss a proceeding if the proceeding appears on its face to be frivolous, vexatious or an abuse of process, or may make a determination to that effect in a summary manner.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. McDonell?

Mr. Jim McDonell: I know that other legislation has come through this Legislature and they have included amendments such as this—legislation that allows for easy dismissal. I know that there are cases. I've heard legislation passed that talked about the need for this in particular in the legislation, so I'm somewhat surprised that all of a sudden the basic protections that are there will actually work for everything. We just think it's worthwhile to include it in this section.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, we'll go to the vote.

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost.

We go to PC motion number 62: Mr. Coe.

Mr. Lorne Coe: I move that schedule 3 to the bill be amended by adding the following section:

“No action

"11.2(1) No action lies against a ticket business by a person who makes tickets for an event available for sale on the secondary market or who facilitates the sale of tickets for an event on the secondary market for the cancellation, by the ticket business, of any or all of the tickets, if the tickets were purchased by the person from the ticket business in bulk for the purpose of sale on the secondary market.

"Exception

"(2) Subsection (1) does not apply in such circumstances as may be prescribed."

To my colleague, please.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: The government can't predict, describe or prescribe every method for fighting bots and bulk buyers who don't want to attend the event but buy tickets simply to skim a profit off them in the secondary market. Ticket businesses, however, have the data, the knowledge and the resources to identify suspicious transactions and take the kind of action that hurts scalpers the most: taking their goods away from them. The secondary market exists for those who have tickets they can't use. It is not there for those with the best bots or the largest army of people at computers at bulk-buying operations somewhere abroad, somewhere outside the country that this legislation would have a very hard time enforcing.

If a ticket business exercises due diligence and takes strong action against these individuals and businesses, they should know that the government has their back. If the effort is made to stop this action, that should be considered good enough.

1700

The Chair (Mr. Peter Tabuns): Further discussion? There's none?

Mr. Lorne Coe: Recorded vote, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost.

Colleagues, we have a long section with no amendments, from 12 to 42. I propose to bundle them together. No objections? Excellent. Shall schedule 3, sections 12 to 42, inclusive, carry? They are carried.

We then go to vote on schedule 3 as a whole. Shall schedule 3, as amended, carry? It is carried.

We now go to government motion number 63: Mr. Dhillon.

Mr. Vic Dhillon: Schedule 4 to the bill, subsection 1(1.1) (section 1 of the Ontario New Home Warranties Plan Act, definition of "home").

I move that section 1 of schedule 4 to the bill be amended by adding the following subsection:

"(1.1) Clause (a) of the definition of 'home' in section 1 of the act is amended by striking out 'by common wall' at the end and substituting 'by one or more common walls'."

The Chair (Mr. Peter Tabuns): Did you wish to speak to that?

Mr. Vic Dhillon: Our rationale is that this change would eliminate the inconsistency in the definition of "new home" in schedules 1 and 2 of the bill, and the definition of "home" in the Ontario New Home Warranties Plan Act. This change has no impact on the substantive policy underlying the bill, as it is correcting a technical inconsistency.

The Chair (Mr. Peter Tabuns): Any further discussion? There's none? We'll go to the vote. All those in favour of government motion 63, please indicate. Opposed? It is carried.

We now go to vote on the section as a whole. Any discussion of section 1? There's none? Shall schedule 4, section 1, as amended, carry? It is carried.

We then go to government motion number 64: Mr. Dhillon.

Mr. Vic Dhillon: Schedule 4 to the bill, subsection 2(1) (clause 2(2)(e) of the Ontario New Home Warranties Plan Act).

I move that clause 2(2)(e) of the Ontario New Home Warranties Plan Act, as set out in subsection 2(1) of schedule 4 to the bill, be amended by adding "or related to the enactment of any act that replaces all or any part of this act" after "the repeal of this act" in the portion before subclause (i).

The Chair (Mr. Peter Tabuns): Any discussion? There being no discussion, we'll go to the vote. All those in favour of government motion number 64, please indicate. Those opposed? It is carried.

We then vote on section 2 as a whole. Any discussion of section 2? There being none, shall schedule 4, section 2, as amended, carry? Carried.

We then go to section 3. Is there any discussion of section 3? There's none? We'll go to the vote. Shall schedule 4, section 3 carry? It is carried.

We now go to government motion number 65: Mr. Dhillon.

Mr. Vic Dhillon: Schedule 4 to the bill, section 4 (subsection 5.1(11) of the Ontario New Home Warranties Plan Act).

I move that subsection 5.1(11) of the Ontario New Home Warranties Plan Act, as set out in section 4 of schedule 4 to the bill, be amended by striking out "the delegated provisions".

The Chair (Mr. Peter Tabuns): Any discussion? There's none? We'll go to the vote. All those in favour of government motion number 65, please indicate. All those opposed? It is carried.

We then go to vote on section 4 as a whole. Any discussion of section 4? There's none? Shall schedule 4, section 4, as amended, carry? Carried.

We then go to NDP motion number 66: Mr. Gates.

Mr. Wayne Gates: Schedule 4 to the bill, section 4.1 (section 5.4 of the Ontario New Home Warranties Plan Act).

I move that schedule 4 to the bill be amended by adding the following section:

“4.1 The act is amended by adding the following section:

“Minister’s power re by-laws

“5.4 The minister may create, amend or revoke any by-law made by the corporation under section 23.””

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Gates.

Mr. Wayne Gates: Bill 166 already has similar provisions in schedules 1 and 2, but this motion gives the minister the immediate authority to create, amend or revoke a Tarion bylaw. Tarion is unique in Ontario in that its bylaws have the same legal status as a government regulation. No other delegated authority has this extraordinary power. It’s crucial that this power to enact regulations be immediately brought under the oversight of the minister instead of waiting for repeal of the ONHWP Act.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. McDonell.

Mr. Jim McDonell: The government has admitted that Tarion has drifted too far from its leadership, and we agree. Tarion exists as a monopoly, is unaccountable, compels builders to pay, and is the only recourse for wronged consumers. The government must retain the ultimate control over the agency. We agree with the comments made by Mr. Gates that the Legislature must hold the final control over this legislation.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, we’ll go to the vote.

Mr. Wayne Gates: Recorded, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We then go to NDP motion number 67. Mr. Gates.

Mr. Wayne Gates: Schedule 4 to the bill, section 4.2 (section 5.5 of the Ontario New Home Warranties Plan Act).

I move that schedule 4 to the bill be amended by adding the following section:

“4.2 The act is amended by adding the following section:

“Minister’s power re information

“5.5 The minister may require the corporation to provide any requested information to the minister.””

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Gates.

Mr. Wayne Gates: Again, similar provisions are already in schedules 1 and 2. This gives the minister the

immediate power to receive any information from Tarion. Currently, Tarion is under no obligation to disclose anything to the minister that it doesn’t want to disclose. Again, no other delegated authority in Ontario is allowed to operate with this lack of transparency. This had a direct impact on Justice Cunningham’s work since he could only request information from Tarion, but Tarion was not obliged to co-operate. This is unacceptable and must be changed immediately, prior to the repeal of the ONHWP Act.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: We certainly support this. We support transparency and disclosure by Tarion. We’re somewhat surprised. We’d think the government would support this because it is only asking for information as deemed to be important by the minister. It gives the government more power; I mean, it doesn’t allow them to bury their head in the sand. But I think that type of information disclosure would certainly be a minimum.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Delaney.

Mr. Bob Delaney: Chair, Tarion already has an access-to-information policy. It provides the right of access of the public to reasonable information, and it also allows individuals a right of access to their own personal information.

The Chair (Mr. Peter Tabuns): Mr. McDonell, then Mr. Gates.

Mr. Jim McDonell: I think, just to be clear, everybody knows the power of the freedom-of-information act, but people do expect the government to have more power than that freedom-of-information act provides. When you are the government, they expect you to be able to access information on provincial issues. Being able to request information should be, by far, the minimum this government should accept, or any other government.

1710

Again, I’m somewhat surprised. It doesn’t seem that they’re supporting it. I know that you claim you don’t know something, but you certainly won’t know if you don’t have access to the information.

The Chair (Mr. Peter Tabuns): Mr. Gates.

Mr. Wayne Gates: I don’t quite understand the reason why the Liberals fight so hard to protect Tarion and not fight at the same level to protect consumers and homebuyers. It just goes on and on. It’s really, really surprising that that’s where their focus is, rather than on consumers.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, we’ll go to the vote.

Mr. Wayne Gates: Recorded, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost.
We go to NDP motion number 68. Mr. Gates.

Mr. Wayne Gates: Schedule 4 to the bill, section 4.3 (section 5.6 of the Ontario New Home Warranties Plan Act).

I move that schedule 4 to the bill be amended by adding the following section:

“4.3 The act is amended by adding the following section:

“Minister’s power re qualifications

“5.6 The minister may establish qualifications for members of the board of the corporation.””

The Chair (Mr. Peter Tabuns): Discussion? Mr. Gates.

Mr. Wayne Gates: Again, similar provisions are in schedules 1 and 2. This motion gives the minister the immediate ability to set qualifications for members of the board. This would give the minister the immediate ability to improve public confidence in Tarion by ensuring a board composition where there is no appearance of conflict between the interests of the consumer and the interests of the industry organizations that currently control the board. It is basic governance 101 and should be immediately implemented without waiting for the eventual repeal of the ONHWP.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: We’ve got to remember why we’re here on this part of the bill: It’s because consumers spoke out about issues they had with Tarion. The government finally commissioned Justice Cunningham to review the file, and chose to ignore most of his recommendations.

Really, our role should be to protect consumers’ interests. The board, as independent as it is, it seems kind of a funny situation we’re creating here. We don’t like the situation as it is today, but we’re not willing to make the changes required to really ensure that consumer protections are provided.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, we’ll go to the vote.

Mr. Wayne Gates: Sorry—

The Chair (Mr. Peter Tabuns): Mr. Gates; sorry.

Mr. Wayne Gates: All I wanted to say is that it’s almost common sense that the board should be fair and should be balanced, and that certainly hasn’t been the case.

The Chair (Mr. Peter Tabuns): Thank you.

Mr. Wayne Gates: You’re welcome.

The Chair (Mr. Peter Tabuns): To the vote, then.

Mr. Wayne Gates: Recorded, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We go to NDP motion number 69. Mr. Gates.

Mr. Wayne Gates: Schedule 4 to the bill, section 4.4 (section 5.7 of the Ontario New Home Warranties Plan Act).

I move that schedule 4 to the bill be amended by adding the following section:

“4.4 The act is amended by adding the following section:

“Minister’s power re administrative agreement

“5.7 The minister may direct the corporation to enter into an administrative agreement with the minister that contains such terms and conditions as the minister may require.””

The Chair (Mr. Peter Tabuns): Mr. Gates, did you want to speak to that?

Mr. Wayne Gates: Yes, sir, thank you. Again, similar provisions are in schedules 1 and 2. This allows the minister to immediately require Tarion to enter into an administrative agreement and to set terms and conditions of this agreement. There currently is no true administrative agreement between Tarion and the government that is comparable to the formal administrative agreements that exist between government and other delegated authorities. Tarion can basically do whatever it wants. This must change immediately without waiting for the eventual repeal of the ONHWP Act.

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Delaney.

Mr. Bob Delaney: The motion is unnecessary. Tarion currently has an accountability agreement with the minister in place.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, we’ll go to the vote.

Mr. Wayne Gates: Recorded, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We then go to NDP motion number 70.

Mr. Wayne Gates: Schedule 4 to the bill, section 4.5 (section 5.8 of the Ontario New Home Warranties Plan Act).

I move that schedule 4 to the bill be amended by adding the following section:

“4.5 The act is amended by adding the following section:

“Auditor General

“5.8 The Auditor General appointed by the Auditor General Act may conduct an audit of the corporation, other than an audit required under the Corporations Act.””

The Chair (Mr. Peter Tabuns): Discussion? Mr. Gates, did you want to speak to that?

Mr. Wayne Gates: Again, there are similar provisions in schedule 1 and 2. This allows the Auditor General to immediately conduct an audit of Tarion. Not only has the government already agreed with the principle that the warranty authority should be subject to the oversight of the Auditor General, but an audit at Tarion would provide the government with crucial information about what is currently working and what is not working with Tarion. It is hard to see how the government can restructure the new home warranty system without a complete and accurate picture of the current situation. The Auditor General must be given this oversight authority immediately without waiting for the repeal of the ONHWP Act, and the NDP urges the government to direct the AG to undertake an audit of Tarion as soon as possible.

The Chair (Mr. Peter Tabuns): Mr. Delaney and then Mr. McDonell. Mr. Delaney, please.

Mr. Bob Delaney: The government agrees and will support this.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: I just want to say that the oversight by the Auditor General should be a minimum. I certainly agree with this motion and will support it.

The Chair (Mr. Peter Tabuns): Further discussion? There being none, we'll go to the vote.

Mr. Wayne Gates: Recorded, please.

Ayes

Coe, Delaney, Dhillon, Gates, McDonell, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is carried.

We then go to NDP motion number 71. Mr. Gates.

Mr. Wayne Gates: Schedule 4 to the bill, section 4.6 (section 5.9 of the Ontario New Home Warranties Plan Act).

I move that schedule 4 to the bill be amended by adding the following section:

"4.6 The act is amended by adding the following section:

"Ombudsman

"5.9 The corporation is subject to the oversight of the Ombudsman of Ontario."

The Chair (Mr. Peter Tabuns): Unfortunately, I'm ruling this amendment out of order, as it is beyond the scope of the bill.

That takes us to NDP motion number 72. Mr. Gates.

Mr. Wayne Gates: Am I allowed to challenge the Chair? I'm just kidding.

The Chair (Mr. Peter Tabuns): I think you are allowed to challenge.

Mr. Wayne Gates: Well, I brought a smile to your face, Peter. It's all good. Number 72?

The Chair (Mr. Peter Tabuns): Number 72, please.

Mr. Wayne Gates: Schedule 4 to the bill, section 4.7 (section 5.10 of the Ontario New Home Warranties Plan Act).

I move that schedule 4 to the bill be amended by adding the following section:

"4.7 The act is amended by adding the following section:

"Freedom of Information and Protection of Privacy Act

"5.10 The corporation is deemed to be an institution for the purposes of the Freedom of Information and Protection of Privacy Act."

The Chair (Mr. Peter Tabuns): Discussion? Did you want to speak to that, Mr. Gates?

Mr. Wayne Gates: Just that this is similar to our number 17, and Tarion is subject to the FIPPA.

1720

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. McDonell.

Mr. Jim McDonell: Just a clarification: I thought I heard from the government that it was already subject to the freedom-of-information act.

The Chair (Mr. Peter Tabuns): I've got Mr. Delaney and there may be someone on the government side who wants to address that. Mr. Delaney.

Mr. Bob Delaney: Chair, is the motion in order?

The Chair (Mr. Peter Tabuns): I believe it is.

Mr. Bob Delaney: Chair, I think ministry staff may want to comment on that. The government isn't entirely sure that the motion is in order.

The Chair (Mr. Peter Tabuns): Well, if you wish to call ministry staff forward, I'm happy to have them come forward.

Mr. Bob Delaney: Okay.

Interjections.

Mr. Bob Delaney: Chair, I'm advised that disclosure requirements in the Freedom of Information and Protection of Privacy Act don't apply to the administrative authority model.

The Chair (Mr. Peter Tabuns): Sir, if you'd introduce yourself for purposes of Hansard and then proceed.

Mr. Nick Robins: Good afternoon. My name is Nick Robins and I'm a director in the Ministry of Government and Consumer Services. The Freedom of Information and Protection of Privacy Act does not apply to administrative authorities, so it does not apply to Tarion, but they have their own freedom-of-information policy.

The Chair (Mr. Peter Tabuns): Thank you.

Mr. Ted McMeekin: So it is out of order.

The Chair (Mr. Peter Tabuns): No, I believe it is in order. Ms. McCauley, could you speak to this?

The Clerk of the Committee (Ms. Jocelyn McCauley): This act is already open within the bill, so I believe this is in order currently.

The Chair (Mr. Peter Tabuns): Further discussion? Mr. McDonell.

Mr. Jim McDonell: Well, I think that strengthening freedom of information is important, and I think we'd like to see this pass.

The Chair (Mr. Peter Tabuns): Any further discussion? There being none, we'll go to the vote.

Mr. Wayne Gates: Recorded, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): The motion is lost.

We now have sections 5, 6 and 7 with no amendments. I propose that we bundle them into one vote. Agreed? No objections? Shall schedule 4, sections 5, 6 and 7 carry? Carried.

We then go to NDP motion number 73. Mr. Gates.

Mr. Wayne Gates: Schedule 4 to the bill, section 8 (Ontario New Homes Warranties Plan Act).

I move that section 8 of schedule 4 to the bill be struck out and the following substituted:

“Commencement

“8. This schedule comes into force on the day the Strengthening Protection for Ontario Consumers Act, 2017 receives royal assent.”

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Delaney.

Mr. Bob Delaney: It's an interesting suggestion, Chair, but bringing provisions into force without regulations can result in confusion in the sector and consumer uncertainty.

The Chair (Mr. Peter Tabuns): Mr. McDonell.

Mr. Jim McDonell: Well, this issue has been before us for more than a decade now. I mean, we've seen the Cunningham review; it's been over a year since it was tabled. We think that it certainly has the ability to put this in place sooner than later. This just kicks it down the road.

The Chair (Mr. Peter Tabuns): Further discussion? There is none. We'll go to the vote.

Mr. Wayne Gates: Recorded, please.

Ayes

Coe, Gates, McDonell.

Nays

Delaney, Dhillon, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is lost.

We then go to the vote on section 8 as a whole. Any discussion of section 8? There is none. To the vote, then: Shall schedule 4, section 8 carry? It is carried.

We then go to vote on the schedule as a whole. Shall schedule 4, as amended, carry? It is carried.

We're now in schedule 5. We have no amendments in sections 1 to 20. I would like to bundle them together. Is

there any objection? Excellent. Shall schedule 5, sections 1 to 20, inclusive, carry? They are carried.

Our next amendment was government motion number 74. I'm going to stand it down because we have to go through debate on government motions 75 and 76 first, and if they pass, then we can come back to 74.

Before we go to 75, we have sections 22 to 24 with no amendments. I propose that we bundle them together. Any objections?

Interjection.

The Chair (Mr. Peter Tabuns): Sections 22 to 24.

Mr. Jim McDonell: Okay.

The Chair (Mr. Peter Tabuns): Good. Shall schedule 5, sections 22 to 24, inclusive, carry? They are carried.

That takes us to government motion number 75. Mr. Delaney?

Mr. Bob Delaney: Schedule 5 to the bill, section 24.1 (section 29.1 of the Travel Industry Act, 2002).

I move that schedule 5 to the bill be amended by adding the following section:

“24.1 The act is amended by adding the following section:

““Compliance order

“29.1(1) If the director believes on reasonable grounds that a person has engaged or is engaging in any activity that contravenes any requirement under this act, whether the activity constitutes an offence or not, the director may propose to make an order directing a person to comply with the requirement.

““Notice

“(2) The director shall serve on the person a notice of a proposed order described in subsection (1) and written reasons for making it.

““Request for hearing

“(3) The notice shall state that the person is entitled to a hearing by the tribunal if the person, within 15 days after it is served, mails or delivers a notice in writing requesting a hearing to the tribunal and the director.

““No hearing required

“(4) The director may make the order if the person does not request a hearing in accordance with subsection (3).

““Hearing

“(5) If, in accordance with subsection (3), the person requests a hearing, the tribunal shall hold the hearing.

““Tribunal's order

“(6) The tribunal may order the director to make the proposed order or to refrain from making the proposed order or may make an order of its own in substitution for that of the director.

““Conditions

“(7) The tribunal may attach to its order the conditions that it considers proper.

““Parties

“(8) The parties to proceedings before the tribunal under this section are the director, the person who has requested the hearing and the other persons, if any, that the tribunal specifies.””

The Chair (Mr. Peter Tabuns): Any discussion? There being none, we will go to the vote on government motion 75. All those in favour of government motion 75, please indicate. Opposed? It is carried.

We then go to government motion number 76. Mr. Delaney, you're on a roll.

Mr. Bob Delaney: Schedule 5 to the bill, section 24.2 (section 29.2 of the Travel Industry Act, 2002).

I move that schedule 5 to the bill be amended by adding the following section:

"24.2 The act is amended by adding the following section:

"Immediate compliance order

"29.2(1) If, in the director's opinion, it is in the public interest to do so, the director may make an order requiring compliance with a requirement under this act.

"Same

"(2) The order takes effect as soon as it is served, in accordance with subsection (3), on the person named in it.

"Notice of order

"(3) Upon making an order for compliance under subsection (1), the director shall serve on the person named in the order a notice that includes the order, the written reasons for making it and the statement of the right that subsection 29.1(3) requires be included in a notice mentioned in subsection 29.1(2).

"Hearing

"(4) If, in accordance with the right described in subsection (3), the person named in the order requests a hearing, the tribunal shall hold the hearing.

"Tribunal's order

"(5) The tribunal may confirm or set aside the order or exercise all other powers that it may exercise in a proceeding under section 29.1.

"Expiration of order

"(6) If, in accordance with the right described in subsection (3), the person named in the order requests a hearing,

"(a) the order expires 15 days after the tribunal receives the written request for a hearing; or

"(b) the tribunal may extend the time of expiration until the hearing is concluded, if a hearing is commenced within the 15-day period mentioned in clause (a).

"Same

"(7) Despite subsection (6), if the tribunal is satisfied that the conduct of the person named in the order has delayed the commencement of the hearing, the tribunal may extend the time of the expiration for the order,

"(a) until the hearing commences; and

"(b) once the hearing commences, until the hearing is concluded.

"Parties

"(8) The parties to proceedings before the tribunal under this section are the director, the person who has requested the hearing and the other persons, if any, that the tribunal specifies."

1730

The Chair (Mr. Peter Tabuns): Any discussion? There is none. We'll go to the vote. All those in favour of government motion 76, please indicate. Opposed? It is carried.

We then go back to government motion number 74. Mr. Delaney.

Mr. Bob Delaney: Schedule 5 to the bill, subsection 21(3.1) (clause 23(2)(a.1) of the Travel Industry Act, 2002).

I move that section 21 of schedule 5 to the bill be amended by adding the following subsection:

"(3.1) Subsection 23(2) of the act is amended by striking out 'or' at the end of clause (a) and by adding the following clause:

"(a.1) the director has made an order under section 29.1 or 29.2; or"

The Chair (Mr. Peter Tabuns): Any discussion? There is none. Going to the vote: All those in favour of government motion number 74, please indicate. Opposed? It is carried.

Then we vote on section 21. Any discussion on section 21? There is none. Vote: Shall section 5, schedule 21, as amended, carry? It is carried.

We then go to government motion number 77. Mr. Delaney.

Mr. Bob Delaney: Schedule 5 to the bill, section 24.3 (section 29.3 of the Travel Industry Act, 2002).

I move that schedule 5 to the bill be amended by adding the following section:

"24.3 The act is amended by adding the following section:

"Appeal

"29.3 Even if a party to a proceeding before the tribunal appeals, under section 11 of the Licence Appeal Tribunal Act, 1999, an order of the tribunal made under section 29.1 or 29.2, the order takes effect immediately but the tribunal may grant a stay until the disposition of the appeal."

The Chair (Mr. Peter Tabuns): Any discussion? There being none, we'll go to the vote on government motion number 77. All those in favour of government motion number 77, please indicate. Opposed? It is carried.

Colleagues, we now have sections 25 to 29 with no amendments. I propose bundling them together. Any objections? Mr. McDonell.

Mr. Jim McDonell: No, I agree with it, but I'd like to make a comment first.

The Chair (Mr. Peter Tabuns): By all means, sir.

Mr. Jim McDonell: Section 41 of the Travel Industry Act itself is not in discussion in the bill, but it establishes a travel industry guarantee fund and gives the minister broad powers to regulate it, including how it is to be funded. We heard stakeholders calling for beefing up of the fund to face unpredicted or massive travel disruption. We encourage the minister to take such steps as necessary to raise the capitalization of the guarantee fund through the powers already granted in section 41. We've heard that we've had certain incidents around the globe where there has been a massive disruption, and the

money that's currently in the fund is not enough to look after the needs of the travellers.

The Chair (Mr. Peter Tabuns): No further comment? Okay. I'm going to group 25 to 29 together. Shall schedule 5, sections 25 to 29, inclusive, carry? They are carried.

Then we'll vote on schedule 5 as a whole. Shall schedule 5, as amended, carry? It is carried.

We now return to the first three sections of Bill 166. I suggest we bundle the three sections together. Agreed. Shall sections 1, 2 and 3 carry? They are carried.

We now go to the title. Shall the title of the bill carry? Carried.

Ms. Daiene Vernile: May I ask for a recorded vote on the next?

The Chair (Mr. Peter Tabuns): Absolutely.

Recorded vote on, shall Bill 166, as amended, carry?

Ayes

Delaney, Dhillon, Gates, McMeekin, Vernile.

The Chair (Mr. Peter Tabuns): It is carried.

Shall I report Bill 166, as amended, to the House? Agreed.

Done. That's it.

Mr. Ted McMeekin: Well done, Mr. Chair.

The Chair (Mr. Peter Tabuns): Thank you. Members of the committee, thank you for the work that you've put in. Staff and all who have lived through this, thank you very much. We stand adjourned.

The committee adjourned at 1735.

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Ms. Daiene Vernile (Kitchener Centre / Kitchener-Centre L)

Also taking part / Autres participants et participantes

Ms. Rosemary Logan, counsel, justice policy development branch, Ministry of the Attorney General

Mr. Nick Robins, director, Ministry of Government and Consumer Services

Clerk / Greffière

Ms. Jocelyn McCauley

Staff / Personnel

Mr. Michael Wood, legislative counsel

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